

20133

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

In the Matter of the Estate of Reba P.
Hinson, Probate # 2008-ES-12-297,
Circuit Court # 2010-CP-12-168,

Mell Woods Appellant,

v.

Robert H. Breakfield, as Personal Representative
of the Estate of Reba P. Hinson, ... Respondent.

RECORD ON APPEAL

Vol. 2

Court Of Appeals Internal Tracking Number: 2011-191876

Mell Woods
P.O. Box 2603
Lancaster, SC 29721

B. Michael Brackett
Moses Koon & Brackett
P.O. Box 100261
Columbia, SC 29202
Respondent Attorney

**OFFICE OF THE PROBATE COURT
CHESTER COUNTY
PO DRAWER 580**

CHESTER, SC 29706

CASE# : 2008ES1200297

ESTATE OF: REBA PETTIT HINSON,

Payor: ROBERT HAROLD BREAKFIELD

Receipt Number: 3443

Officer: DIANNE

Cash or Check# : 2058

Date of Recelpt: 01/29/2010

TOTAL FEES: \$5.50

PAYMENTS: \$5.50

ENDING BALANCE: \$0.00

ACCOUNT:

COMMENTS:

COUNTY OF CHESTER

IN THE MATTER OF ESTATE OF REBA HINSON

CASE NUMBER 2008 ES 1200 297

PROPOSAL FOR DISTRIBUTION

Personal Representative(s): Robert H. Breakfield, Esq.

Name and Address of Distributee	Amount or Item
Lois Hinson – (SEE ATTACHED LIST FOR ADDRESSES)	\$76,162.85 – Cash
John C. Hinson	\$76,162.87 – Cash
Kathy Huffstickle	\$15,511.43 – Cash; an Acct. Receivable for \$60,651.42
Darrell W. Hinson	\$9,520.35 – Cash
E/O Linda Stanford	\$9,520.35 – Cash
Elaine H. Hensley	\$9,520.35 – Cash
William C. Hinson, Jr.	\$9,520.35 – Cash
Robert H. Hinson	\$9,520.35 – Cash
Charles J. Hinson	\$9,520.35 – Cash
John D. Hinson	\$9,520.35 – Cash
William L. Hinson	\$9,520.35

LOIS H. RODDEY
JUDGE OF PROBATE
2010 JAN 27 P 12:23
CLERK OF COURT

Executed this 21st day of December, 2009.

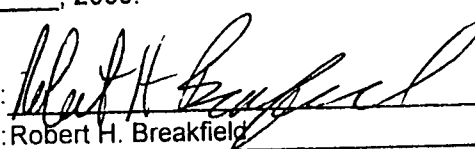
Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

Signature: 

Name: Robert H. Breakfield

Address: PO Box 36061

Rock Hill, SC 29732

Telephone (O): _____

(H): _____

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHESTER

IN THE MATTER OF REBA P. HINSON

CASE NUMBER: 2008ES1200297

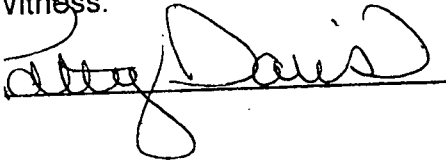
RECEIPT

The undersigned hereby acknowledges receipt from the Personal Representative in this matter of the following property:

A distribution check from the Estate in the amount of \$76,162.85.

Executed this 28th day of December, 2009.

Witness:



Beneficiary:


Lois Hinson

LOIS H. RODDEY
JUDGE OF PROBATE
2010 JAN 27 P 12:23
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

IN THE PROBATE COURT
FOR CHESTER COUNTY

Estate of Reba P. Hinson
2008-ES-1200-297

2010 JAN 27 P 12 23

LOIS H. RODDEY
JUDGE OF PROBATE

This agreement between Robert H. Breakfield, Personal Representative of Estate of Reba P. Hinson, and Kathy H. Huffstickle resolves the matter of certain funds removed by Kathy H. Huffstickle from the bank account of Reba P. Hinson on or about December 28, 2006 in the amount of \$260,651.42.

In exchange for the estate electing not to pursue a claim against Kathy H. Huffstickle for interest earned on \$260,651.42 from December 28, 2006 to July 27, 2009 and to not pursue the bank interest penalty forfeiture on funds that were removed from the accounts of Reba P. Hinson on December 28, 2006 by Kathy H. Huffstickle, Kathy H. Huffstickle has paid over to the estate the sum of \$200,000.00. In addition, the estate will hold an account receivable in the amount of \$60,651.42 from Kathy H. Huffstickle which shall be subtracted from her share of the Hinson estate. Therefore, upon the closing of the Hinson estate and the distribution of assets to the estate beneficiaries in lieu of the first \$60,651.42 that is distributable to Kathy H. Huffstickle, the receivable will be reduced dollar for dollar until the receivable is extinguished. Thereafter, Kathy H. Huffstickle shall receive her probate share of the estate distribution.

Executed this 27 day of July, 2009

Witnesses

Patricia Davis

Kelly S. Sumwalt

Patricia Davis

Kelly S. Sumwalt

Kathy Huffstickle
Kathy H. Huffstickle
Beneficiary

Robert H. Breakfield
Robert H. Breakfield
Personal Representative of
Estate of Reba P. Hinson

Robert H. Breakfield
Personal Representative of
Estate of Reba P. Hinson
12/22/09

STATE OF SOUTH CAROLINA

COUNTY OF: LANCASTER

IN THE MATTER OF: LINDA HINSON
STANFORD

IN THE PROBATE COURT

CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2010ES2900006

This is to certify that

GEORGE W. STANFORD, SR

is/are the duly qualified

☒
☐
☐
☐
☐

PERSONAL REPRESENTATIVE
GUARDIAN
CONSERVATOR
TRUSTEE

in the above matter and that this appointment, having been executed on the 7th day of January, 2010, is now in full force and effect, including authorization to receive all monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS:

NONE

Executed this 7th day of January, 2010.

LOIS H. RODDEY
JUDGE OF PROBATE
2010 JAN 27 P 12 23
LANCASTER COUNTY S.C.

Sandra S. Estridge

SANDRA S. ESTRIDGE, Probate Court Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE MATTER OF REBA PETTIT HINSON

IN THE PROBATE COURT
CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2008ES1200297

This is to certify that
ROBERT HAROLD BREAKFIELD

is/are the duly qualified

- ☒ PERSONAL REPRESENTATIVE
☐ GUARDIAN
☐ CONSERVATOR
☐ TRUSTEE

In the above matter and that this appointment, having been executed on the 18th day of February, 2009 is now in full force and effect, including authorization to receive all monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS: NONE.

Executed this 18th day of February, 2009

Do not accept a copy of this certificate without
the raised seal of the Probate Court.

Lois H. Roddey
LOIS H. RODDEY, JUDGE OF PROBATE

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHESTER

IN THE MATTER OF ESTATE OF REBA HINSON

CASE NUMBER 2008ES1200297

PROOF OF DELIVERY

On the 21st day of December, 2009, I mailed or delivered an Estate distribution check,

a copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☒ personal delivery
- ☒ ordinary first class mail
- ☐ certified mail
- ☐ registered mail

to each of the following persons at the address shown:

NAME
SEE ATTACHED LIST

ADDRESS

SWORN to before me this 21 day of
December, 2009

Kelly S. Sumwalt
Notary Public for South Carolina
My Commission Expires: 1-16-2014

Signature: Patricia Davis

Name: Patricia Davis

Address: C/O Robert H. Breakfield

P.O. Box 36061, Rock Hill, SC 29732

Telephone(O): (803) 329-4920

(H):

Signature:

Name:

Address:

Telephone(O):

(H):

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

STATEMENT OF CREDITOR'S CLAIM

CASE NUMBER: _____

Decedent's Date of Death (if known): 1-3-07

Decedent's Last Mailing Address: 1414 Catawba River Rd; Fort Lawn, SC 29714

Creditor: Lancaster Convalescent Center

Address: PO Box 1749

Lancaster, SC 29721

Telephone: 803-285-7907

Basis of claim:

ADB charges for Reba Hinson as agreed.

Amount of claim \$ 962.00

Date claim will become due (if not already due): already due, 20____

Nature of uncertainty as to amount of claim and due date, if any:

Description of any security as to claim:

Signature: Donna B. Kyle

Title: Business Office mg.

Date: 3-14-07

INSTRUCTIONS: Claims must be filed with the Probate Court of this county and delivered or mailed to the Personal Representative appointed to administer the estate (see section 62-3-803, 62-3-804, and 62-3-806 on next page.)



Chester County, South Carolina

LOIS H. RODDEY, JUDGE OF PROBATE
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

January 25, 2008

Mr. James W. Boyd
Attorney at Law
Post Office Box 36425
Rock Hill, SC 29732

In Re: Estate of Reba P. Hinson

Dear Mr. Boyd:

Regarding the above referenced matter, please find enclosed Notice of Hearing to Kathy Huffstickle and James W. Boyd, Attorney.

Yours truly,

Lois H. Roddey

Lois H. Roddey
Judge of Probate

LHR/sfw

508

Ned Gregory, II

GREGORY & GREGORYSM
ATTORNEYS AT LAW

Post Office Box 967
210 West Meeting Street
Lancaster, South Carolina 29721-0967
Telephone (803) 283-3324
Fax Line (803) 283-3326
E-Mail: ngregory@comporium.net

Toy R. Gregory, Sr.
(1899 - 1973)
Ned Gregory, Sr.
(1903 - 1985)

January 11, 2009

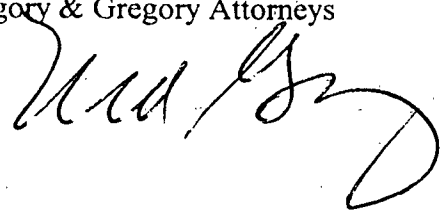
Chester County Probate Court
Post Office Drawer 580
Chester, SC 29706-0580

RE: Estate of Reba Pettit Hinson

In regards to the above captioned case, enclosed please find an original and a copy of the Proof of Delivery. Once this has been recorded please return copy to us in the provided self addressed stamped envelope.

Yours very truly,

Gregory & Gregory Attorneys

By: 

NGII/law
enclosure

LOIS H. RODDEY
JUDGE OF PROBATE
2009 JAN 14 A 11:44
PROBATE COURT
CHESTER COUNTY S.C.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

PROBATE COURT

IN THE MATTER OF REBA PETTIT HINSON

CASE NUMBER 2008-ES-12-00297

PROOF OF DELIVERY

On the 9th day of January, 2009 I mailed or delivered a copy of Petition for Appointment, a copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☐ personal delivery
☒ ordinary first class mail
☐ certified mail
☐ registered mail

LOIS H. RODDEY
JUDGE OF PROBATE
2009 JAN 14 1A 11:44
PROBATE COURT
CHESTER COUNTY S.C.

to each of the following persons at the addresses shown:

Lois Hinson	1414 Catawba River Road	Fort Lawn, SC 29714
Kathy Hinson Huffstickle	5715 Lake View Circle	Fort Lawn, SC 29714
John Calhoun Hinson	1563 Hinton Drive	Great Falls, SC 29055
William Levy Hinson	909 Stone Oak Court	Sanford, NC 27330
John Daniel Hinson	5621 Footlose Road	Fort Lawn, SC 29714
Charles Jerry Hinson	237 Laura Lot 21	Florence, SC 29506
Robert Harold Hinson	Post Office Box 72	McConnells, SC 29706
William Calvin Hinson, Jr.	118 Nella Street	Chester, SC 29706
Etta Elaine H. Hensley	6 Church Street	Great Falls, SC 29055
Linda Kay H. Stanford	6969 Snowy Owl Road	Kershaw, SC 29067
Darrell Wayne Hinson	Post Office Box 163	Fort Lawn, SC 29714

SWORN to before me this 9th day of
January, 2009

Signature Ned Gregory, II

Name Ned Gregory, II

Address: Post Office Box 967

Lancaster, SC 29721-0967

Telephone (O) (803) 283-3324

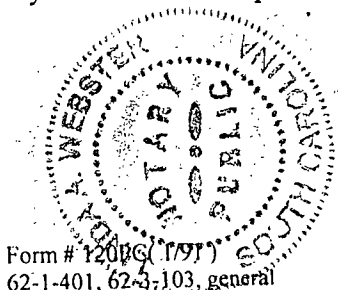
Signature _____

Name _____

Address: _____

Telephone (O) _____
(H) _____

Linda A. Webster
Notary Public for South Carolina
My Commission Expires: 8/31/2014



Ned Gregory, II

GREGORY & GREGORYSM
ATTORNEYS AT LAW

Post Office Box 967
210 West Meeting Street
Lancaster, South Carolina 29721-0967
Telephone (803) 283-3324
Fax Line (803) 283-3326
E-Mail: ngregory@comporium.net

Toy R. Gregory, Sr.
(1899 - 1973)
Ned Gregory, Sr.
(1903 - 1985)

December 1, 2008

Judge Lois H. Roddey
Post Office Box 580
Chester, SC 29706

RE: Estate of Reba Pettit Hinson

Dear Judge Roddey,

Enclosed please find the original and one copy of the Petition of Robert Harold Breakfield, Esq. for Appointment of Personal Representative in the above captioned estate.

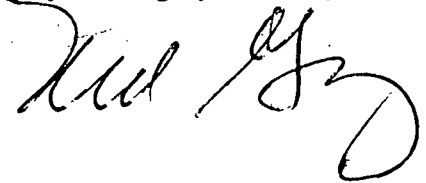
Please file in your Court and have the copy conformed and returned in the self-addressed stamped envelope.

Please advise how you wish to proceed.

Yours very truly,

Gregory & Gregory, Attorneys

By:



I

NGII/law
enclosure
cc. Robert Harold Breakfield, Esq.
Lois Hinson

LOIS H. RODDEY
JUDGE OF PROBATE
2008 DEC 15 P 4:09
PROBATE COURT
CHESTER COUNTY S.C.

GREGORY & GREGORYSM

ATTORNEYS AT LAW

Ned Gregory, II

Toy R. Gregory, Sr.
(1899 - 1973)
Ned Gregory, Sr.
(1903 - 1985)

Post Office Box 580
210 West Meeting Street
Lancaster, South Carolina 29721-0967
Telephone (803) 283-3324
Fax Line (803) 283-3326
E-Mail: ngregory@comcast.net

September 4, 2008

Chester County Probate Court
Post Office Drawer 580
Chester, SC 29706-0580

RE: Estate of Reba Pettit Hinson

I understand that on June 19, 2008, James W. Boyd, Esq. notified via fax Steedley J. Bogan, Esq., Bruce M. Poore, Esq., and the undersigned regarding the proposed appointment of John Gettys, Esq. as Personal Representative of the above captioned estate and that, after receiving no response, sent a follow up fax on August 26, 2008.

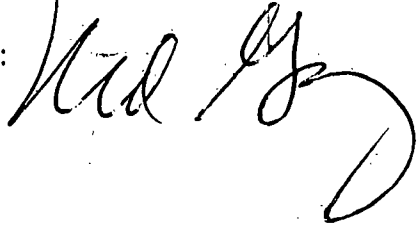
While my client neither agrees with nor opposes the appointment of Gettys, Robert Harold Brakefield, Esq. of the Rock Hill Bar has consented to serve as Personal Representative and is hereby submitted to the Probate Court for its consideration. Mr. Brakefield's phone number is (803) 329-4920.

I personally believe that Mr. Brakefield would make an excellent choice as Personal Representative of the Estate of Reba P. Hinson, would act promptly and serve efficiently. Therefore, by way of copies hereof to the noted attorneys, I am requesting that responses be made to the Probate Court by September 15, 2008; otherwise, I hereby request that Mr. Brakefield be appointed by the Probate Court.

P.S. Mr. Boyd has confirmed by phone conversation on September 4, 2008 that he has no objection with appointment of Mr. Brakefield.

Yours very truly,

Gregory & Gregory Attorneys

By: 

NGII/law

cc. Lois Hinson
Steedley J. Bogan, Esq.
James W. Boyd, Esq.
Bruce M. Poore, Esq.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE MATTER OF REBA PETTIT HINSON

IN THE PROBATE COURT
FIDUCIARY LETTERS

CASE NUMBER: 2008ES1200297

Recorded- Book C
Page 8

- ☒ PERSONAL REPRESENTATIVE
☐ GUARDIANSHIP
☐ CONSERVATORSHIP
☐ TRUSTEESHIP
☐ _____

On the 18th day of February, 2009

ROBERT HAROLD BREAKFIELD

was/were appointed and qualified as Fiduciary(ies) of the above matter by this court, with all the authority granted to a fiduciary by law.

NOW, THEREFORE, LETTERS are issued, as evidence of such appointment, qualification, and authority of the a fiduciary(ies) to do and perform all acts which may be authorized by law.

RESTRICTIONS:

NONE.

Executed this 18th day of February, 2009

Do not accept a copy of this certificate without
the raised seal of the Probate Court.

Lois H. Roddey
LOIS H. RODDEY, JUDGE OF PROBATE

STATE OF SOUTH CAROLINA

COUNTY OF: CHESTER

IN THE MATTER OF: REBA P. HINSON

IN THE PROBATE COURT

NOTICE OF: HEARING

CASE NUMBER:

TO: KATHY HUFFSTICKLE AND JAMES W. BOYD, ATTORNEY.

DATE: FEBRUARY 28, 2008

TIME: 2:00 PM

PLACE: CHESTER COUNTY PROBATE COURT, 1476 J. A. COCHRAN BY-PASS, CHESTER, SC

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

TO APPOINT A PERSONAL REPRESENTATIVE OR CO-PERSONAL REPRESENTATIVES FOR THE ESTATE OF REBA P. HINSON.

Executed this 25th day of January 2008.

Lois H. Roddey
LOIS H. RODDEY, JUDGE OF PROBATE

IF TRANSCRIPT OF HEARING IS DESIRED, YOU WILL NEED TO ARRANGE FOR A COURT REPORTER.

2-18-2010

Per Judge Gettys -
Original Private Last
Will dated April 5,
2003 is in safe

the other children name C
Kathy, 7th bn, William,
1-2 - 3 track of land
in well inherit track #

1. I will and direct that my Executor hereinafter shall from their first money coming into their hands from my estate pay all my just debts if any doctors, hospital, and others as soon as possible. After he or she is qualified. The Cash if any will be divided equal between my four children name 1/4 Lois & Huffer Rathy E. Huffstickle, John C. Kinson William C. Hinson Heirs (he is deceased)

at my death I bequest to my daughter Lois S. Huffer Certificate at Spratts Bank in Chester, S.C. to be given at my death to be put in trust fund ^{she will not have an income} why she has no land bordering the river except one small area. She ^{will} inherit's track #4 which is the home stead. The land was given to me by my father & mother Safford Pettit and Hattie Pettit. I my self bought my sister part and my

brothers part 2 Reba P Hinson paid for it with my money.

also I ask that all household ~~goods~~ stay in my house until Lois S Hiffin death to be divided between the four children or their heirs, Name ^{Lois} S Hiffin heirs, Kathy Huffstickle, John C Hinson William C Hinson (deceased) heirs

at my death I will to Lois Hiffin my automobile, my rings, watch, cell jewelry.

As for land that was willed to me my life time by Levie Hoyt Hinson my husband as follows

1. Lot # 1 Kathy Huffstickle
2. Lot # 2 John C Hinson
3. Lot # 3 William C Hinson (deceased) his heirs.

Levie Hoyt Hinson desire was for Lois S Hinson to have track number 4 which is the homestead and the land that is in Reba P Hinson only. track # 4.



Chester County, South Carolina

LOIS H. RODDEY, JUDGE OF PROBATE
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

January 25, 2008

Mr. Ned Gregory, II
Gregory & Gregory
Attorneys at Law
Post Office Box 967
Lancaster, SC 29721

In Re: Estate of Reba P. Hinson

Dear Mr. Gregory:

Regarding the above referenced matter, please find enclosed Notice of Hearing to Lois Hinson Griffin and Ned Gregory, II, Attorney.

Yours truly,

Lois H. Roddey
Lois H. Roddey
Judge of Probate

LHR/sfw

517

STATE OF SOUTH CAROLINA

COUNTY OF: CHESTER

IN THE MATTER OF: REBA P. HINSON

IN THE PROBATE COURT

NOTICE OF: HEARING

CASE NUMBER:

TO: LOIS HINSON GRIFFIN AND NED GREGORY, II, ATTORNEY.

DATE: FEBRUARY 28, 2008

TIME: 2:00 PM

PLACE: CHESTER COUNTY PROBATE COURT, 1476 J. A. COCHRAN BY-PASS, CHESTER, SC

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

TO APPOINT A PERSONAL REPRESENTATIVE OR CO-PERSONAL REPRESENTATIVES FOR THE ESTATE OF REBA P. HINSON.

Executed this 25th day of January 2008.

Lois H. Roddey

LOIS H. RODDEY, JUDGE OF PROBATE

IF TRANSCRIPT OF HEARING IS DESIRED, YOU WILL NEED TO ARRANGE FOR A COURT REPORTER.



Chester County, South Carolina

LOIS H. RODDEY, JUDGE OF PROBATE
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

January 25, 2008

Mr. John C. Hinson
1563 Hinton Road
Great Falls, SC 29055

In Re: Estate of Reba P. Hinson

Dear Mr. Hinson:

Regarding the above referenced matter, please find enclosed Notice of Hearing scheduled for February 28, 2008 at 2:00 PM.

Yours truly,

Lois H. Roddey
Lois H. Roddey
Judge of Probate

LHR/sfw

STATE OF SOUTH CAROLINA

COUNTY OF: CHESTER

IN THE MATTER OF: REBA P. HINSON

IN THE PROBATE COURT

NOTICE OF: HEARING

CASE NUMBER:

TO: JOHN C. HINSON

DATE: FEBRUARY 28, 2008

TIME: 2:00 PM

PLACE: CHESTER COUNTY PROBATE COURT, 1476 J. A. COCHRAN BY-PASS, CHESTER, SC

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

TO APPOINT A PERSONAL REPRESENTATIVE OR CO-PERSONAL REPRESENTATIVES FOR THE ESTATE OF REBA P. HINSON.

Executed this 25th day of January 2008.

Lois H. Roddey
LOIS H. RODDEY, JUDGE OF PROBATE

Ned Gregory, II

GREGORY & GREGORYSM
ATTORNEYS AT LAW

Post Office Box 967
210 West Meeting Street
Lancaster, South Carolina 29721-0967
Telephone (803) 283-3324
Fax Line (803) 283-3326
E-Mail: ngregory@infoav

Toy R. Gregory,
(1899 - 1973)
Ned Gregory, Sr.
(1903 - 1985)

March 15, 2007

via facsimile (803) 581-5180

Chester County Probate Court
Honorable Lois H. Roddey
Post Office Box 580
Chester, SC 29706

RE: Estate of Reba P. Hinson

Dear Judge Roddey,

Please be advised, that I have been retained by Lois H. Griffin to represent her in the above captioned case. I have prepared an Application for Appointment for her to submit to the Court for filing and in that regard, please accept this letter as a formal request for a hearing to appoint the Personal Representative in this case.

*Lois Griffin
Wants you to wait
until next week
to set date for
hearing on Petition
if you can.*

3-20-07

*Put in vault
Per Judge*

4-4-07

Yours very truly,

Gregory & Gregory Attorneys

By:

[Signature]

II

4-2-07

*Will be scheduling
hearing next week &
will notify you by
letter*

*Renunciations need to
be signed by ones not
serving as P.R.*

521

March 15, 2007

Lois Hinson Griffin and her daughter left these papers – they were told they needed to file the original and have copies clocked (clocked copies of course given back to them)

Shortly thereafter daughter returned asking if she could please check information to make sure it is correct as to names and addresses of heirs which I allowed her to do. I then inquired as to an attorney representing them and she said that would be Gregory and Gregory, Lancaster, SC.

I told them they would need to call back this afternoon for further instructions.

STATE OF SOUTH CAROLINA

COUNTY OF: CHESTER

IN THE MATTER OF: Reba Pettit Hinson

IN THE PROBATE COURT

CASE NUMBER:

APPLICATION FOR

INFORMAL

(check any that apply)

- ☒ PROBATE OF WILL
☒ APPOINTMENT

PETITION FOR

FORMAL

- ☒ TESTACY
☒ APPOINTMENT

Applicant/Petitioner: Lois Hinson Griffin

Address: 1414 Catawba River Road

Telephone: Fort Lawn, South Carolina 29714

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Give your relationship to the decedent, if any, and your interest in this proceeding.

As Decedent's oldest daughter. I am interested in processing the Estate according to the wishes of my mother.

2. Decedent Information

Name: Reba Pettit Hinson

Social Security Number: [REDACTED]

Date of Birth: July 3, 1915

Date of Death: January 3, 2007

Age at date of death: 91

Domicile at date of death: Chester South Carolina
(county) (state)

3. Venue for this proceeding is proper in this county because:

- ☒ Decedent was domiciled in this county at date of death.
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.
☐ Decedent has a right to take legal action in this county because:

- 4.a. Names and addresses of devisees in the will including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Decedent
Lois Hinson Griffin	4-14-33	1414 Catawba Street, Ft. Lawn, SC 29714	daughter
Kathy Hinson Huffstickle	12-4-52	5715 Lake View Cir., Ft. Lawn, SC 29714	daughter
John Calhoun Hinson	5-9-28	1563 Hinton Dr., Great Falls, SC 29055	son
William Levie Hinson	3-19-47	909 Stone Oak Court, Sanford, NC 27330	grandson

(use additional sheet if necessary)

Estate of Reba Pettit Hinson

Cont.

4.a.

<u>Name</u>	<u>Date of Birth</u>	<u>Address</u>	<u>Relationship</u>
John Daniel Hinson	4-19-48	56 Foot Loose Road, Ft. Lawn, SC 29714	grandson
Charles Jerry Hinson	12-20-49	237 Laurell Lot 21, Florence, SC 29506	grandson
Robert Harold Hinson	12-3-50	PO Box 72, McConnells, SC 29726	grandson
Michael Dennis Hinson	4-3-52	Deceased 4-17-52	grandson
William Calvin Hinson, Jr	7-17-53	118 Nella St., Chester, SC 29706	grandson
Etta Elaine H. Hensley	7-31-54	6 Church St., Great Falls, SC 29055	granddaughter
Linda Kay H. Stanford	2-6-56	PO Box 271, Lancaster, SC 29721	granddaughter
Darrell Wayne Hinson	4-5-61	PO Box 163, Fort Lawn, SC 29714	grandson

- 4.b. Names and addresses of intestate heirs who are not devisees, including dates of birth of minors. If there are no minors, so state. Intestate heirs are the persons who would inherit if the decedent left no will.

Name	Date of Birth	Address	Relationship to Decedent
None			

(use additional sheet if necessary)

5. Did decedent have any change of marital status or the birth or adoption of any children after execution of this will, if one exists, or has any child of the decedent been born since his death, or is any birth of a child of the decedent anticipated? (This includes illegitimate children.)
- ☒ NO ☐ YES If yes, please explain, on page 3.
6. To the best of your knowledge, was the decedent a patient in a South Carolina Mental Health facility during his/her lifetime?
- ☒ NO ☐ YES If yes, please explain, on page 3.
7. Has a guardian or conservator ever been appointed for this person?
- ☒ NO ☐ YES If yes, please explain on page 3.
8. Has a personal representative of the decedent been appointed prior to this date by a Court in this state or elsewhere?
- ☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.
9. Have you received or are you aware of any demands for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere?
- ☒ NO ☐ YES If yes, please state details, including names and addresses of such Personal Representative, on page 3.
10. Have more than ten years passed since the decedent's death?
- ☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.
11. The decedent died with a personal estate of about the value of \$308,000.00 and real estate of about the value of N/A. (A full inventory and appraisal, Form #350PC, must be filed within 90 days.) If decedent was non-resident, please attach South Carolina Commission form ET 101.
12. After the exercise of reasonable diligence, are you aware of any unrevoked will and/or codicil(s), other than the one(s) attached hereto, relating to property in this State?
- ☒ NO ☐ YES If yes, please explain on page 3 and then proceed to Section II.

IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the decedent's will:

- ☐ The original is attached
☒ The original is in the Court's possession
☐ An authenticated copy of a will probated in another jurisdiction is attached
☐ An authenticated copy of a will not probated in another jurisdiction is attached
☐ The will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached

2. Do you believe, to the best of your knowledge, the will described above was validly executed?

- ☒ Yes ☐ NO If no, please explain on page 3.

3. The date of execution of the will was: June 23, 1998
codicil(s): N/A

4. Are you aware of any instrument or document amending or revoking the will?

- ☒ NO ☐ YES If yes, please explain on page 3.

5. Have you exercised reasonable diligence to determine there is no instrument or document revoking the will?

- ☒ YES ☐ NO If no, please explain on page 3.

6. Do you believe the will defined in "1" above is the decedent's last will?

- ☒ YES ☐ NO If no, please explain on page 3.

COMPLETE EXPLANATION (S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheet.)

to 4, 5, 6 - The handwritten document apparently written by Decedent dated April 5, 2003 and the typed
ment dated April 5, 2003 and witnessed April 24, 2003, were not validly executed; therefore, were not considered
ve revoked the Last Will and Testament dated June 23, 1998.

IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. The name(s) and address(es) of the proposed Personal Representative(s) is/are:
2. Priority for this appointment is:
 - ☒ named as Primary Personal Representative in will or nominee of Primary Personal Representative
 - ☐ named as Alternate Personal Representative in will or nominee of Alternate Personal Representative
 - ☐ named as nominee of Primary and/or Alternate Personal Representative
 - ☐ other devisee of decedent, or nominee (describe): _____ or nominee of said devisee
 - ☐ surviving spouse of decedent, or nominee of said spouse
 - ☐ other heir of decedent (describe): _____
 - ☐ creditor (Forty-five days after death must have passed), or nominee of creditor
 - ☐ other (describe): _____
 - ☐ nominee of any of the above
3. List below the names of any other persons, if any, having a prior or equal right of appointment (see priority above).

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 15th day of March, 20 07

Linda A. Webb

Notary Public for South Carolina

My Commission Expires: 8-31-2014

Signature: Lois B. Griffin
Name: Lois Hinson Griffin
Address: 1414 Catawba River Road
Fort Lawn, South Carolina 29714
E-mail: _____
Telephone (O): _____
(H): _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☐ GRANTED ☐ DENIED informal this _____ day of _____, 20 _____.

_____, Probate Court Judge

ORDER FOR HEARING ON FORMAL PETITION

IT IS HEREBY ORDERED that a hearing on this matter be set for:

E: _____
E: _____
CE: _____

Pursuant to Section 62-1-401, the petitioner is ordered to give notice of this hearing to all interested persons at twenty (20) days prior to the hearing.

Executed this _____ day of _____, 20____

, Probate Court Judge

ORDER OF FORMAL TESTACY

On hearing of the above petition, this Court finds that the person is deceased, venue is proper, and the proceeding was commenced within appropriate time limits.

The Court further finds that

☐ the decedent died intestate. The heirs are:

☐ the decedent died testate. IT IS HEREBY ORDERED that the Last Will and Testament of the above-named decedent, dated _____, be admitted formally to probate.

Executed this _____ day of _____, 20____

, Probate Court Judge

ATTACHED ORDER

ORDER OF APPOINTMENT

IT IS HEREBY ORDERED that the above application/petition for appointment be granted upon the filing of a bond appropriate, qualification and acceptance.

Executed this _____ day of _____, 20____

, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate.

Signature: _____

Name: Lois Hinson Griffin

Address: 1414 Catawba River Road
Fort Lawn, South Carolina 29714

E-mail: _____

Telephone (O): (803) 482-3448

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Attorney: _____

Address: _____

E-mail: _____

Telephone (O): _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

On the 16th day of December, 2009, I mailed or delivered the following document,
pgs. 3 + 4 of form #300; Letter to Judge Gettys; 306 S.C. 270

- ☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery
☐ certified mail
☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
<u>Robert Harold Breakfield</u>	<u>P.O. Box 3601</u> <u>Rock Hill, SC 29732</u>

SWORN to before me this 16th day of
December, 2009

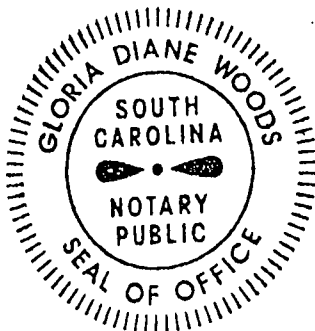
Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 08, 2018

Signature: [Signature]
Name: Meil Woods
Address: P.O. Box 2603
Lancaster, SC 29721
Telephone (O):
(H):
E-mail:

Signature: _____
Name: _____
Address: _____
Telephone (O): _____
(H): _____
E-mail: _____



YORK COUNTY PROBATE COURT

John P. Gettys, Judge of Probate
Post Office Box 219, York, SC 29745
Tel: (803) 684-8513 Fax: (803) 684-8536

2010 JAN 12 A 9:04

January 8, 2010

PROBATE COURT
CHESTER COUNTY S.C.

Mr. Mell Woods
Post Office Box 2603
Lancaster, South Carolina 29721

RE: Estate of Reba P. Hinson
Case No. 2008ES1200297

Dear Mr. Woods:

Enclosed is copy of Order for Hearing on your motion to remove. I was unable to contact you by telephone to confirm that the hearing time and date were convenient. Please contact me within five days of receipt of this letter if you desire to change the time or date of the hearing.

Sincerely yours,

John P. Gettys
Judge of Probate

Enclosure(s)

cc: B. Michael Brackett, Esquire

NOTICE TO
CREDITORS OF
ESTATES

All persons having claims against the following estates are required to deliver or mail their claims to the indicated Personal Representative, appointed to administer the estates, AND to file their claims on Form #371PC, with the Probate Court, Chester County, at:

Drawer 580,
Rock Hill, SC 29706, on or before the date that is 8 months after the date of the first publication of this Notice to Creditors, or such persons shall be required to be present in written statements, indicating the name and address of the claimant, the basis of the claim, the amount claimed, date when the claim will become due, the nature of any uncertainty as to the amount claimed, and the date when due, and a description of any security as to the claim.

of the first publication of this Notice to Creditors, or such persons shall be required to be present in written statements, indicating the name and address of the claimant, the basis of the claim, the amount claimed, date when the claim will become due, the nature of any uncertainty as to the amount claimed, and the date when due, and a description of any security as to the claim.

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IN THE PROBATE COURT

NOTICE TO CREDITORS

CASE NUMBER: 2008ES1200297

*NOTICE TO CREDITORS OF ESTATES

Persons having claims against the following estates are required to deliver or mail their claims to the indicated Personal Representative (PR), appointed to administer these estates, AND to file their claims on Form #371PC, with the Probate Court, Chester County, at: **CHESTER COUNTY at PO DRAWER 580 CHESTER, SC 29706** on or before the date that is 8 months after the date of the first publication of this Notice to Creditors, or such persons shall be required to be present in written statements, indicating the name and address of the claimant, the basis of the claim, the amount claimed, date when the claim will become due, the nature of any uncertainty as to the amount claimed, and the date when due, and a description of any security as to the claim.

REBA PETTIT HINSON

2008ES1200297

Personal Representative: ROBERT HAROLD BREAKFIELD

Box 36061

Rock Hill, SC 29732

when the claim becomes due, the nature of any uncertainty as to the amount claimed, and the date when due, and a description of any security as to the claim.

01/03/2007

INSTRUCTIONS: Publication to be in NEWS AND REPORTER a newspaper of general circulation in CHESTER COUNTY. Publish only this (*) portion of this form. Notice may be combined by listing individualized statements of the estates under one heading consisting of the notice text. Publish once a week for three weeks.

Copy of this form with proof of its publications with Probate Court.

CERTIFICATE OF PUBLICATION

Estate: Evelyn M.

Personal Representative:

W. McDonald

Address: 1213

Rock Hill, SC 29706

with law.

Estate: Mary

Black

Personal Representative:

Y.B. Blackburn

Address: 1213

Rock Hill, SC 29706

with law.

Estate: Reba Pettit

for South Carolina

Personal Representative:

Robert Harold Breakfield

Address: P.O. Box

1, Rock Hill, SC

29732

01/03/2007

W3tMarch11pd

Signature:

Name:

Address:

ROBERT HAROLD BREAKFIELD

P. O. BOX 36061

ROCK HILL, SC 29732

Telephone (O):

Telephone (H):

803 329-4920

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309

B. Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

December 23, 2009

The Honorable Lois H. Roddey
Chester County Probate Judge
P. O. Drawer 580
Chester, SC 29706

RE: Estate of Reba P. Hinson
08-ES-12-297
Our File Number - 12085.1

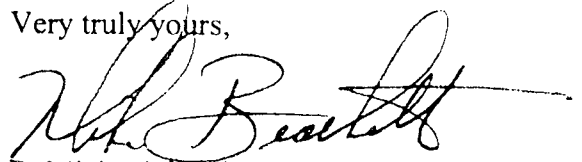
LOIS H. RODDEY
JUDGE OF PROBATE
2010 JAN -4 P 3:02
PROBATE COURT
CHESTER COUNTY S.C.

Dear Judge Roddey:

Enclosed for filing please find the Personal Representative's Return to Claimant's Motion for Removal to Circuit Court, and included in the Return is the Personal Representative's separate Motion to Dismiss. By copy of this letter, a copy of the enclosure is being mailed to Judge Gettys, and to the Claimant, Mr. Mell Woods.

Please return a clocked copy of the enclosed Return/Motion to Dismiss using the envelope provided.

Very truly yours,



B. Michael Brackett

BMB/bmb
Enclosures

cc. The Honorable John P. Gettys
Robert P. Breakfield, Esquire
Mr. Mell Woods

*Per Lois - clock in, file
& mail clocked copy*

1-4-10

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHESTER

LOIS H. RODDEY
JUDGE OF PROBATE

IN THE MATTER OF THE ESTATE OF REBA P. HINSON

2010 JAN -4 P 3:02

CASE NUMBER 2008-ES-12-00297

PROOF OF DELIVERY

On the 23rd day of December, 2009, I delivered copies of The Personal Representative's Return to Claimant's Motion for Removal, including the PR's Motion to Dismiss

copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☐ personal delivery
☒ ordinary first class mail
☐ certified mail
☐ registered mail

to each of the following persons at the address shown:

NAME

ADDRESS

Mell Woods, pro se

P. O. Box 2603, Lancaster, SC 29721

SWORN to before me this 23rd day of
December, 2009

Moses Koon

Notary Public for South Carolina

My Commission Expires: 12-15-15

Signature: B. Michael Brackett

Name: B. Michael Brackett

Address: Moses Koon & Brackett, PC

P. O. Box 100261, Columbia, SC 29202-3261

Telephone(O):

(H):

Signature:

Name:

Address:

Telephone(O):

(H):

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

On the 22nd day of January, 2010, I mailed or delivered the following document
Petition for removal of personal representative

☒
☐

A copy of which is attached hereto and incorporated herein, or
The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail

☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

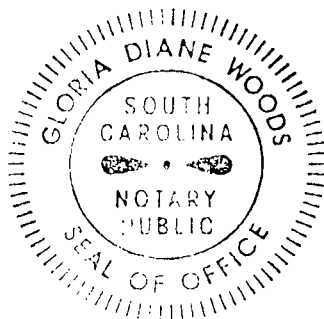
NAME	ADDRESS
<u>B. Michael Brackett</u>	<u>P.O. Box 100261</u>
	<u>Columbia, SC 29202</u>

SWORN to before me this 22 day of
January, 2010

Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 8, 2018



Signature: [Signature]

Name: Mei Woods

Address: P.O. Box 2603
Lancaster, SC 29721

Telephone (O): _____

(H): _____

E-mail: _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

On the 7 day of January, 2010, I mailed or delivered the following document,
Letter sent to B. Michael Brackett dated December 29, 2009

- ☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery
☐ certified mail
☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME

ADDRESS

B. Michael Brackett

P.O. Box 100261

Columbia, SC 29202

FORN to before me this 7th day of
January, 2010

Gloria Diane Woods

ary Public for South Carolina

Commission Expires: Jan. 8, 2018

Signature:

Name:

Address:

Telephone (O):

(H):

E-mail:

Signature:

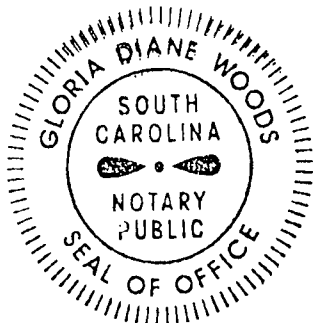
Name:

Address:

Telephone (O):

(H):

E-mail:



STATE OF SOUTH CAROLINA

COUNTY OF:

Chester

IN THE MATTER OF:

Reba P. Hinson

IN THE PROBATE COURT

DEMAND FOR BOND

CASE NUMBER:

2008 ES

1200297

Demandant Name:

Mell Woods

1. Nature of interest of undersigned: Improvements At Lot 10
2. Amount of interest or claim in the above estate: \$120,000.00 N. Adams Rd
3. The undersigned hereby demands that bond be required of the Personal Representative(s) of the estate.
4. Check one:
☒ By copy of this demand to Robert H. Breakfield, who was appointed and qualified Personal Representative in this matter, I have given notice as required by law.
☐ To my knowledge, no Personal Representative has been appointed or qualified as of this date.

Executed this

09 day of

November, 20

09

Signature:

Name:

Address:

Telephone (O):

(H):

W. Woods
Mell Woods
P.O. Box 26
LANCASTER, SC 29026

ORDER

Receipt of this demand, the Personal Representative shall give suitable bond. The Personal Representative shall refrain from exercising any powers of his estate or to pay the above demandant.

Executed this

day of

20

, Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

On the 09 day of Dec, 2009, I mailed or delivered the following document,
Petition for Allowance of Claim

- ☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery
☐ certified mail
☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME

Robert Harold Breakfield

ADDRESS

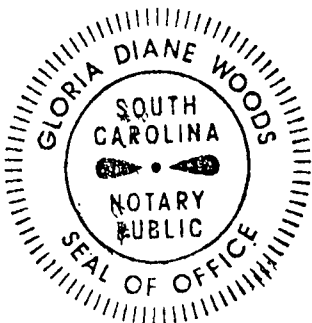
P.O. Box 36061
Rock Hill, SC 29732

SWORN to before me this 09 day of
December, 2009

Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 08, 2018



Signature: [Signature]

Name: McIl Woods

Address: P.O. Box 2603

Lancaster, SC 29721

Telephone (O): _____

(H): _____

E-mail: _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200291

On the 09 day of Dec, 2009, I mailed or delivered the following document,

Demand for Jury Trial



A copy of which is attached hereto and incorporated herein, or
The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail

☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME

ADDRESS

Robert Harold Breakfield

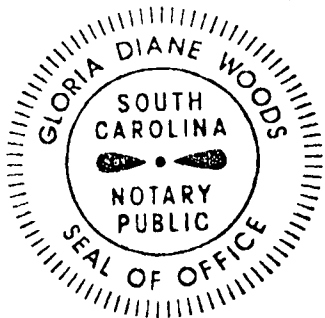
P.O. Box 36061
Rock Hill, SC 29732

SWORN to before me this 09 day of
December, 2009

Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 08, 2018



Signature: [Signature]

Name: McCl Woods

Address: P.O. Box 2603

Lancaster, SC 29721

Telephone (O): _____

(H): _____

E-mail: _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

LOIS H. RODDEY
JUDGE OF PROBATE
2009 DEC - 9 P 4:41
PROBATE COURT
CHESTER COUNTY S.C.

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

On the 09 day of Dec, 2009, I mailed or delivered the following document,
Motion for removal to Circuit Court

- ☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery
☐ certified mail

- ☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME

Robert Harold Breakfield

ADDRESS

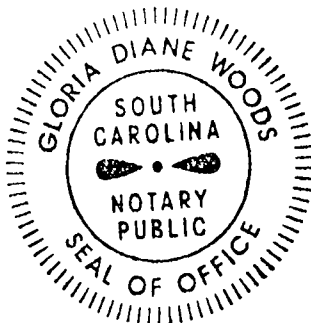
P.O. Box 36066
Rock Hill, SC 29732

SWORN to before me this 09 day of
December, 2009

Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 08, 2018



Signature: [Signature]

Name: Mell Woods

Address: P.O. Box 2603
Lancaster, SC 29721

Telephone (O): _____

(H): _____

E-mail: _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Minson

IN THE PROBATE COURT

DEMAND FOR JURY TRIAL

CASE NUMBER: 2008ES120029

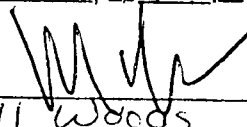
Petitioner: Mell Woods

1. Nature of interest of undersigned: Property and damages
2. I request a trial by jury be set in the above matter relating to the following (complete both):

a. Issue of fact (describe): amount
Jury to determine amt. of damages

b. Action for recovery of (specify):
money

Executed this 09 day of December, 2009

Signature: 

Name: Mell Woods

Address: P.O. Box 2603
Lancaster SC 29721

Telephone (O): _____

(H): _____

ORDER FOR JURY TRIAL

On the basis of the above petition, IT IS HEREBY ORDERED that the petition for jury trial be ☐ GRANTED
☐ DENIED as follows:

Executed this _____ day of _____, 20____.

_____, Probate Court Judge

E OF SOUTH CAROLINA

PROBATE COURT

NTY OF CHESTER

IE MATTER OF REBA P. HINSON

NUMBER 2008ES1200297

PROOF OF DELIVERY

On the 11th day of November, 2009, I mailed or delivered a copy of Notice of Hearing, Notice of Allowance of Claim, Statement of Creditor's Claim filed by Mell Woods,

copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☐ personal delivery
☒ ordinary first class mail
☐ certified mail
☐ registered mail

LOIS H. RODDEY
JUDGE OF PROBATE
2009 NOV 13 P 12:20
PROBATE COURT
CHESTER COUNTY S.C.

Each of the following persons at the address shown:

NAME

ADDRESS

SEE ATTACHED LIST

FORN to before me this 11th day of
November, 2009

Elly S. Sumwalt
Notary Public for South Carolina

Commission Expires: 1-16-2019

Signature: Patricia Davis

Name: Patricia Davis

Address: C/O Robert H. Breakfield

P.O. Box 36061, Rock Hill, SC 29732

Telephone(O): (803) 329-4920

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone(O): _____

(H): _____

Lois Hinson
1399 Beaver Dam Rd.
Richburg, SC 29729

Kathy H. Huffstickle
5715 Lake View Cr.
Fort Lawn, SC 29714

John C. Hinson
1563 Hinton Dr.
Great Falls, SC 29055

William L. Hinson
611 Hughes Street
Sanford, NC 27330

John D. Hinson
1683 Poorboy Road
Great Falls, SC 29055

Charles J. Hinson
237 Laura, Lot 21
Florence, SC 29506

Robert H. Hinson (337 Naturewoods Rd)
PO Box 72
McConnells, SC 29726

William C. Hinson, Jr.
118 Nella Street
Chester, SC 29706

Elaine H. Hensley
6 Church Street
Great Falls, SC 29055

Linda H. Stanford
6969 Snowy Owl Rd.
Kershaw, SC 29067

Darrell W. Hinson
PO Box 163
Fort Lawn, SC 29714

LOIS H. RODDEY
JUDGE OF PROBATE
2009 NOV 13 P 12:20
PROBATE COURT
CHESTER COUNTY S.C.

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHESTER

IN THE MATTER OF ESTATE OF REBA P. HINSON

CASE NUMBER 2008ES1200297

NOTICE OF: HEARING

DATE: December 15, 2009

TIME: 3:30 p.m.

PLACE: Chester County Probate Court, 1476 J.A. Cochran Bypass, Chester County, South Carolina 29706

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc):

LOIS K. RODNEY
JUDGE OF PROBATE
2009 NOV 13 P 11 20
PROBATE COURT
CHESTER COUNTY, S.C.

Executed this 10th day of November, 2009

Signature: Robert H. Breakfield

Name: Robert H. Breakfield

Address: P. O. Box 36061

Rock Hill, SC 29732

Telephone(O): 803-329-4920

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone(O): _____

(H): _____

544

FORM #110PC (1/89)

62-1-401, 62-3-201, 62-3-310, 62-3-403, 62-3-611, 62-3-1001, 62-3-1002, 62-3-1003,
62-3-1102, 62-4-203, 62-4-303, 62-5-301, 62-5-309, 62-5-401, 62-5-402, 62-5-405, 62-
5-406, 62-5-412, 62-5-413, 62-5-422, 62-7-206, etc.

ROBERT HAROLD BREAKFIELD
ATTORNEY AT LAW

THE SQUARE AT CONSTITUTION * 1590-02 CONSTITUTION BLVD.
P.O. BOX 36061 * ROCK HILL, SOUTH CAROLINA * 29732
TELEPHONE (803) 329-4920 * FAX (803) 329-0476
breakfieldb@comporium.net

November 10, 2009

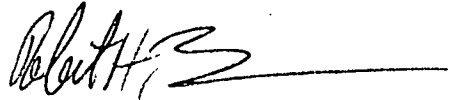
Mr. Mell Woods
P. O. Box 2603
Lancaster, SC 29721

Re: Estate of Reba Hinson

Dear Mr. Woods,

The Probate Court has scheduled a Hearing for your claim on December 15, 2009
at 3:30 p.m. in the Probate Court for Chester County.

With kindest regards,



Robert H. Breakfield

RHB/psd

C: The Honorable Lois H. Roddey
The Honorable John P. Gettys
All Beneficiaries of Estate

11-13-09

Scanned letter only

LOIS H. RODDEY
JUDGE OF PROBATE
2009 NOV 13 P 12:20
PROBATE COURT
CHESTER COUNTY S

Sending Confirm

Date : DEC-10-2009 THU 08:38AM
Name : PROBATE COURT
Tel. : 8035815180

Phone : 18036848536
Pages : 7
Start Time : 12-10 08:35AM
Elapsed Time : 02'21"
Mode : ECM
Result : Ok

Motion
Proof of Delivery
Demand for Jury Trial
Proof of Delivery
Petition for allowance of Claim
Proof of Delivery



Chester County
Probate Judge

P.O. Drawer 580, 140 Main Street
Chester, South Carolina 29706
Phone (803) 385-2604 Fax (803) 581-5180

To: Judge Gettys

Date: 12/9/09

Company: _____

Fax: 803 684-8536

From: Stella

Re: _____

Number of Pages (including cover sheet) 8

Urgent () For Review () Please Comment () Please Reply () Please Recycle ()

Comments:

Judge Gettys: _____

Hearing scheduled on Estate of Reba Hinson on December 15,

2009, at 3:30 P.M. Mell Woods paid \$150.00 12/9/09 to file

Petition for Allowance of Claim.

Thanks,

Stella

**OFFICE OF THE PROBATE COURT
CHESTER COUNTY
PO DRAWER 580**

CHESTER, SC 29706

CASE# : 2008ES1200297

ESTATE OF: REBA PETTIT HINSON,

Payor: ROBERT H. BREAKFIELD

Receipt Number: 3165

Officer: DIANNE

Cash or Check# : 1978

Date of Receipt: 10/08/2009

TOTAL FEES: \$764.92

PAYMENTS: \$764.92

ENDING BALANCE: \$0.00

ACCOUNT:

COMMENTS:

Chester, SC October 6 20

Mr. Robert H. Breakfield
P. O. Box 36061
Rock Hill, SC 29732

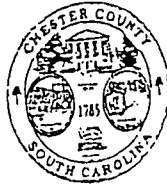
TO **COUNTY OF CHESTER, DR.**
CHESTER COUNTY PROBATE COURT

ESTATE OF REBA P. HINSON
File No. 2008ES1200297

Probate fee

\$764.92

Nov. 12, 2009



Patti called from Bob
Breakfield's office -

She said Judge Roddey
ruled on something in
Mr. Hinson's Estate concerning
the real estate - Fax to
her at 803-329-0476

Chester County
Probate Judge
P.O. Drawer 580, 140 Main Street
Chester, South Carolina 29706
Tel (803) 385-2604 Fax (803) 581-5180

Faxed Order dated 10.15.09 &
Amended Real Est. Convey.

To: Patti

Company: _____

From: Jenni Zorn

Date: Nov. 12, 2009

Fax: 803-329-0476

Re: Hinson Estate

Number of Pages (including cover sheet) 5

Urgent () For Review () Please Comment () Please Reply () Please Recycle ()

Comments:

Patti,
I'm not sure if this is what you need or not. If not,
let me know.

I faxed Judge Roddey a copy of the Demand for Bond.
He will be in touch with Mr. Breakfield about that.

If there's anything else we can do for you, let
us know.

Jenni

LOIS H. RODDEY
JUDGE OF PROBATE

2001 OCT 30 A 11:54

PROBATE COURT
CHESTER COUNTY S.C.

IN THE PROBATE COURT
SIXTH CIRCUIT COURT

Case No. 1986-ES-12-18

ORDER

LOIS H. RODDEY
JUDGE OF PROBATE

2001 OCT 16 A 9:12

PROBATE COURT
CHESTER COUNTY S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF CHESTER)

Kathy H. Huffstickle,)

In the Matter of: Levie Hoyt Hinson,)

Petitioner.)

vs.)

Lois H. Griffin,)

Respondent.)

This matter came before the Court on August 9, 2007, for a hearing on the Petition of Kathy H. Huffstickle dated May 23, 2007, seeking to set aside an amended real estate conveyance filed by the Probate Court on March 8, 2007. It appears that Levie Hoyt Hinson died on August 1, 1986, leaving a Last Will and Testament. Item I of Levie Hoyt Hinson's Will reads as follows:

"I will, devise and bequeath unto my beloved wife, Reba P. Hinson all of my personal property of every kind and description including cash money. At her death, the remainder if any, to our beloved children. Name: William C. Hinson deceased his heirs, Lois H. Griffin, John C. Hinson, and Kathy H. Huffstickle, share and share alike."

Item II of the Will reads as follows:

"I will, devise and bequeath unto my beloved wife, Reba P. Hinson all my real estate, in fee simple, as long as she lives then to our bodily heirs forever."

Item II of the Will appears to leave a Life Estate to Reba P. Hinson in all of Levie Hoyt Hinson's real estate then to the bodily heirs forever. The issue in this case turns upon a determination of the intention of Levie Hoyt Hinson in using the language "bodily heirs". It was the contention of the Petitioner that the deceased intended to leave to his bodily heirs the property in question and that Lois H. Griffin was not his bodily heir. It was the contention of Lois H. Griffin that Kathy H. Huffstickle was not a bodily heir of

the parents and that she did not inherit any real estate. It was an alternate contention of Kathy H. Huffstickle that she was the only joint child of Levie Hoyt Hinson and Reba P. Hinson so she is the only bodily heir.

It appears that Levie Hoyt Hinson fathered William C. Hinson and John C. Hinson prior to his marriage to Reba P. Hinson. It appears that Reba P. Hinson gave birth to Lois H. Griffin prior to her marriage to Levie Hoyt Hinson. There was conflicting testimony as to whether or not Kathy H. Huffstickle was the child of Levie Hoyt Hinson and Reba P. Hinson. The defense presented witnesses that Kathy H. Huffstickle was actually a child of the sister of Reba P. Hinson. Kathy H. Huffstickle stated that to her knowledge she was the child of Levie Hoyt Hinson and Reba P. Hinson. A birth certificate was introduced into evidence showing Reba P. Hinson and Levie Hoyt Hinson as the parents of Kathy H. Huffstickle.

Item I of the Will lists each of the children of Levie Hoyt Hinson and Reba P. Hinson. I find that Levie Hoyt Hinson intended to leave the real estate to all of the children listed in Item I and used the term bodily heirs in Item II of the Will interchangeably with the children in Item I of the Will. I further find that he intended to include Kathy H. Huffstickle and Lois H. Griffin as children and bodily heirs.

IT IS SO THEREFORE ORDERED

- A. That the amended real estate conveyance of March 8, 2007, is affirmed,
- B. That the real property consisting of 92 acres referred to in the Petition as tax map no 158-0-0-3 is hereby declared to be owned, as tenants in common, by the bodily heirs of Levie Hoyt Hinson,
- C. That the bodily heirs of Levie Hoyt Hinson are hereby declared to be John C. Hinson, Lois H. Griffin, Kathy H. Huffstickle, and the heirs of William C. Hinson, and
- D. That the heirs of William C. Hinson are William Levy Hinson, John Daniel Hinson, Charles Jerry Hinson, Robert Harold Hinson, William

Calvin Hinson, Etta Elaine Hinson, Linda Kay Hinson, and Darrell Wayne
Hinson.

AND IT SO ORDERED,

October 15th, 2007
Chester, South Carolina

Lois H. Roddey
Lois H. Roddey
Chester County Probate Judge

#3
LR

AMENDED

County of Chester, _____

March 8, 2007

Estate of Levie Hoyt Binson

DECEASED

Book No. S
Page No. 183
File No. 86ES1200180
Pkg. No. _____

Lewis H. Roddy
Judge of Probate Chester County

STATE OF SOUTH CAROLINA PROBATE COURT
COUNTY OF YORK JUDGE OF PROBATE

2010 APR -2 A 10:49
IN THE MATTER OF: ESTATE OF REBA P. HINSON
PROBATE COURT
CASE NUMBER: CHESTER COUNTY CASE NO. 2008ES1200297
YORK COUNTY CASE NO. 2010ES4600265

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing in this matter be set for:

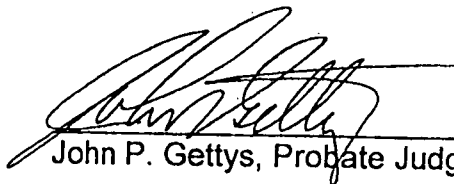
DATE: APRIL 12, 2010

TIME: 11:00 A.M.

PLACE: YORK COUNTY PROBATE COURT, # 1 E. LIBERTY STREET,
YORK, S. C.

HEARING SCHEDULED TO CONSIDER PETITION TO REMOVE
PERSONAL REPRESENTATIVE; PETITION/MOTION TO VACATE
FEBRUARY 18, 2009 ORDER; MOTION TO REMOVE PETITION TO
VACATE TO CIRCUIT COURT; PERSONAL REPRESENTATIVE'S
MOTION TO DISMISS PETITION/MOTION TO VACATE.

Executed this 23rd day of March 2010.


John P. Gettys, Probate Judge

FILED RECEIVED
2010 MAR 24 AM 7:41
JUDGE OF PROBATE
YORK COUNTY, SC

PROBATE COURT

STATE OF SOUTH CAROLINA

COUNTY OF YORK

IN THE MATTER OF THE ESTATE OF REBA P. HINSON

Case NUMBER: YORK - 2010-ES-46-0265
CHESTER - 2008-ES-12-00297

LOIS H. RODDEY
JUDGE OF PROBATE

2010 APR -2 A 10:49

PROBATE COURT
CHESTER COUNTY S.C.

PROOF OF DELIVERY

On the 29th day of March, 2010, I delivered copies of Order for Hearing and Notice of Hearing

copy of which is attached hereto and incorporated herein, by the following method (check appropriate box)

- ☐ personal delivery
☒ ordinary first class mail
☐ certified mail
☐ registered mail

FILED RECEIVED
2010 MAR 31 AM 9:26
JUDGE OF PROBATE
YORK COUNTY, SC

each of the following persons at the address shown:

NAME	ADDRESS
all Woods, pro se	P. O. Box 2603, Lancaster, SC 29721

WORN to before me this 29 day of March, 2010
Laura Lawrence
Notary Public for South Carolina
My Commission Expires: 12-15-15

Signature: Linda T. Abernethy
Name: Linda T. Abernethy, Legal Assistant
Address: Moses Koon & Brackett, PC
P. O. Box 100261, Columbia, SC 29202-3261
Telephone(O): _____
(H): _____

Signature: _____
Name: _____
Address: _____
Telephone(O): _____
(H): _____

556

STATE OF SOUTH CAROLINA
JUDGE OF PROBATE

PROBATE COURT

COUNTY OF YORK

2010 APR -2 A 10:49

IN THE MATTER OF THE ESTATE OF REBA P. HINSON
PROBATE COURT
CHESTER COUNTY S.C.

CASE NUMBER: Chester County Case# 2008-ES-12-00297
York County Case# 2010-ES-46-0265.

FILED RECEIVED
2010 MAR 31 AM 9:26
JUDGE OF PROBATE
YORK COUNTY, SC

NOTICE OF HEARING

DATE: APRIL 12, 2010
TIME: 11:00 A.M.
PLACE: YORK COUNTY PROBATE COURT
1 EAST LIBERTY STREET
YORK, SOUTH CAROLINA

MATTERS TO BE HEARD:

- 1)Petition to Remove Personal Representative
- 2)Petition/Motion to Vacate February 18, 2009 Order
- 3)Motion to Remove Petition to Vacate to Circuit Court
- 4)Personal Representative's Motion to Dismiss Petition and Motion to Vacate



B. Michael Brackett, Esquire
1333 Main Street, Suite 650
Post Office Box 100261
Columbia, South Carolina 29202-3261
(803) 461-2312
Attorney for Personal Representative

Columbia, South Carolina
March _____, 2010

ROBERT HAROLD BREAKFIELD

ATTORNEY AT LAW

LOIS H. RODDEY
JUDGE OF PROBATE

2010 APR -6 A 11:07

THE SQUARE AT CONSTITUTION * 1590-02 CONSTITUTION BLVD.
P.O. BOX 36061 * ROCK HILL, SOUTH CAROLINA * 29732
TELEPHONE (803) 329-4920 * FAX (803) 329-4920
breakfieldb@comporium.net

PROBATE COURT
CHESTER COUNTY, SC.

April 2, 2010

The Honorable Lois H. Roddey
Chester Probate Court
P. O. Drawer 580
Chester, SC 29706

Re: Estate of Reba P. Hinson

Dear Judge Roddey,

Enclosed is a copy of a Durable Power of Attorney for Charles J. Hinson appointing his brother, Robert H. Hinson as his agent. Please attach this document with the Private Agreement I filed with your court.

With kindest regards,



Robert H. Breakfield

RHB/psd
Enclosure

LOIS H. RODDEY
JUDGE OF PROBATE
DURABLE POWER OF ATTORNEY
OF
CHARLES JERRY HINSON

2010 APR -6 A 11:07

PROBATE COURT
CHESTER COUNTY, S.C.

Introductory Provision. I, Charles Jerry Hinson, as principal (the "Principal") have this day appointed Robert H. Hinson to serve as my agent ("Agent") and to exercise the powers and discretions set forth below.

Statement of Intent to Create Durable Power of Attorney Under State Statute. By this instrument I intend to create a Durable Power of Attorney under South Carolina law.

ARTICLE I

AGENT AUTHORIZATION

My Agent is authorized as follows:

(1) **Power with Respect to Legal and Other Actions.** My Agent is authorized to institute, supervise, prosecute, testify on my behalf, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from an action to be commenced in the Court of Common Pleas for Chester County, SC seeking an accounting and a partition and sale of the real property identified on Schedule A attached to this Durable Power of Attorney.

ARTICLE II

INCIDENTAL POWERS

Incidental Powers. In connection with the exercise of the powers herein described, my Agent is fully authorized and empowered to perform any acts and things and to execute and deliver any documents, instruments, certificates and papers necessary or appropriate to such exercise or exercises.

ARTICLE III

THIRD PARTY RELIANCE

For the purpose of inducing all persons, organizations, corporations and entities, including but not limited to any physician, hospital, nursing home, health care provider, bank, broker, custodian, insurer, lender, transfer agent, taxing authority, governmental agency, or other party, all of whom will be referred to in this Article as a

"Person", to act in accordance with the instructions of my Agent as authorized in this instrument, I hereby represent, warrant and agree to the following:

(1) **Revocation and Amendments.** If this instrument is revoked or amended for any reason, I, my estate and my personal representative will hold any person, organization, corporation or entity, hereinafter referred to in the aggregate as "Person", harmless.

(2) **No Liability for Reliance on Agent.** No Person who relies in good faith on the authority of my Agent under this instrument shall incur any liability to me, my estate or my personal representative.

(3) **Principal and Heirs Bound.** No Person who relies on any affidavit or certificate under penalty of perjury that this instrument specifically authorizes my Agent to execute and deliver shall incur any liability to me, my estate or my personal representative.

ARTICLE IV

DURABILITY PROVISION

Immediate Power. This power of attorney shall not be affected by my subsequent disability or incapacity, or lapse of time.

ARTICLE V

ADMINISTRATIVE PROVISIONS

The following provisions shall apply:

(1) **Reimbursement of Agent.** My Agent shall be entitled to reimbursement for all reasonable costs and expenses, including reasonable attorney's fees, actually incurred and paid by my Agent on my behalf at any time under any provision of this instrument. My Agent shall not be entitled to compensation for services rendered hereunder.

(2) **Counterpart Originals.** If this instrument has been executed in multiple counterpart originals, each such counterpart original shall have equal force and effect.

(3) **Photocopies.** My Agent is authorized to make photocopies of this instrument as frequently and in such quantity as my Agent shall deem appropriate. Each photocopy shall have the same force and effect as any original.

Apr. 1. 2010 12:06PM

MAY. 26. 2008 3:24PM

PETRO TRAVEL STORE

No. 318316 P. 7

(4) **Binding Effect.** This instrument and actions taken by my Agent properly authorized hereunder shall be binding on me, my estate and my personal representative.

(5) **Governing Law.** This instrument shall be governed by the laws of the State of South Carolina in all respects.

IN WITNESS WHEREOF, I have executed this Power of Attorney this 26 day of MAY, 2008, and I have directed that photographic copies of this power be made which shall have the same force and effect as an original.

Charles Jerry Hinson
CHARLES JERRY HINSON, PRINCIPAL

ATTESTATION

The foregoing Durable Power of Attorney was this ____ day of ____, 2008, signed, sealed, published and declared by the said Principal as and for the Principal's Durable Power of Attorney in our presence, and at the Principal's request and in the Principal's presence, and in the presence of each other, have hereunto subscribed our names as witnesses on the above date.

Jessica Patterson
Witness A

Vanessa Hinson
Witness B Notary Public

STATE OF SC.

COUNTY OF ROCK

PROBATE

PERSONALLY appeared the undersigned witness and made oath that
he saw the within named Principal duly authorized, sign, seal and as the Principal's act
and deed deliver the within Durable Power of Attorney and that deponent with the other
witness whose name is subscribed above witnessed the execution thereof.

Jessica Patterson
Witness A

SWORN to before me this

26 day of May, 2008.

Vanessa B. Thirion

Notary Public for

My Commission expires: February 18th 2015

LOIS H. RODDEY
JUDGE OF PROBATE

2010 APR 20 A 10:35 April 14, 2010

Mell Woods PROBATE COURT
P.O. Box 26015 CHESTER COUNTY S.C.
Lancaster SC 29721

FILED RECEIVED
2010 APR 16 AM 7:49
JUDGE OF PROBATE
YORK COUNTY, SC

The Honorable John P. Gettys
Judge of Probate
P.O. Box 219
York SC 29745

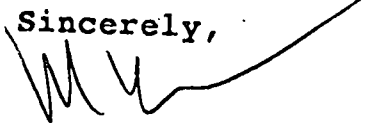
Re: Estate of Reba P. Hinson Chester County Case

Dear Judge Gettys:

I do certainly appreciate the allowance of my claim to be transferred to circuit court. However, while at the circuit court filing the papers, I looked for two other cases on file concerning the above estate one of which is a partition case, and I found the law firm of Morton and Gettys signed in on one case. For the record John P. Gettys, Jr., is your son and is a full partner in the firm of Morton and Gettys.

Your proposed rulings made at the hearing on Monday directly change my material rights, and directly enhance your son's case. I am not saying that you knew about this before, but now you know. This situation is too close for comfort, and a Judge should not be ruling on a family member's case. And coupled with the fact that you refused to allow your clerks to issue witness subpoenas in the case, I will be appealing your ruling to the circuit court. I would appreciate it if you would just not rule and just let the next Judge handle the matter.

Sincerely,


Mell Woods

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

Kathy H. Huffstickle, et al.,

Plaintiff(s)

vs.

W. H. Griffin, et al.,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2009-CP - 12- 00527

Please Print)

Submitted By: William T. Moody

Address: 30 N. Congress St., York, SC 29745

SC Bar #: 063035

Telephone #: 803-684-9604

Fax #: 803-684-4932

Other:

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | 20 -CP- - | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☒ Other (499) Quiet title |
-
- | | | | |
|--|---|---|--|
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| | ☐ Transcript Judgment (740) | ☐ Forfeiture-Petition (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Forfeiture-Consent Order (850) | ☐ SCDOT (950) |
| | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Other (899) | ☐ Worker's Comp (960) |
| | ☐ Other (799) | | ☐ Zoning Board (970) |
| | | | ☐ Administrative Law Judge (980) |
| | | | ☐ Public Service Commission (990) |
| | | | ☐ Employment Security Comm (991) |
| | | | ☐ Other (999) |
-
- | | |
|--|---|
| Special/Complex/Other | |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) |
| ☐ Other (699) | ☐ Sexual Predator (510) |

Submitting Party Signature: _____

Date: 08/14/09

564

MORTON & GETTYS
ATTORNEYS AT LAW

JAMES M. MORTON
JOHN P. GETTYS, JR.
MICHAEL B. SMITH †
JOSHUA B. VANN

SHANNON M. LANDO
ELIZABETH S. OWEN
J. RICHARDS MCCRAE, III

Special Counsel:
WILLIAM T. MOODY

Certified Family Court Mediator †

ROCK HILL OFFICE
334 Oakland Avenue
PO Box 707
Rock Hill, SC 29731
office 803.366.3388
fax 803.324.3768

INDIAN LAND OFFICE
7580 Charlotte Highway
Highway 521, Suite 700
Fort Mill, SC 29707
office 803.548.5646
fax 803.547.4044

YORK OFFICE
Congress St Executive Ctr
30 North Congress St
Suite 200
York, SC 29745
office 803.684.9604
fax 803.684.4932

www.mortongettys.com

A LIMITED LIABILITY COMPANY

September 17, 2009

Reply to York

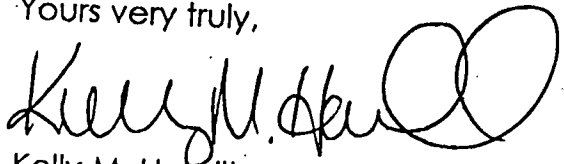
Honorable Sue Carpenter
Clerk of Court for Chester County
PO Drawer 580
Chester, SC 29706

Re: Kathy Huffstickler vs. Lols Griffin
Case no. 2009-CP-12-00527

Dear Ms. Carpenter:

Enclosed please find two (2) originals and two copies of the Affidavit of Process Server in the above referenced matter. At your convenience please file the originals and return a clocked copies to me for my file. Should you have any questions regarding the enclosed, please do not hesitate to contact me.

Yours very truly,



Kelly M. Hamilton
Legal Secretary for William T. Moody

enclosures

FILED

2009 SEP 21 A 11:27

CLERK OF COURT
CHESTER CO S.C.

ACTIVITY REPORT

4-14-10 12:10 PM
TIME : ~~08/18/2008 07:20~~

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
~~08/18~~	~~07:17~~	~~1-803-684-8536~~	02:22	04	OK	TX ECM

4-14-10
 BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE
 CA : CALL BACK MSG
 POL : POLLING
 RET : RETRIEVAL

P.S. I AM sending A COPY
 of this to BRACKETT, but
 NOT filing ANYTHING with
 A COURT, UNLESS SOMEONE
 TELLS me to do so.

MOSES KOON & BRACKETT, PC
ATTORNEYS AND COUNSELORS AT LAW

COP

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309

B. Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

April 21, 2010

Mell Woods
P. O. Box 2603
Lancaster, SC 29721

RE: Estate of Reba P. Hinson
2008-ES-12-0297
Our File Number - 12085.1

LOIS H. RODDEY
JUDGE OF PROBATE
2010 APR 22 P 12:16
PROBATE COURT
CHESTER COUNTY S.C.

Dear Mr. Woods:

Enclosed please find a copy of the Probate Court's Order dated April 19, 2010, filed April 20, 2010, resolving the matters heard on April 12, 2010.

Very truly yours,



B. Michael Brackett

BMB/Ita
Enclosure

cc. Chester County Probate Court
York County Probate Court
Robert H. Breakfield, Esquire

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Phone (803) 461-2300
Toll Free (803) 461-2309

B: Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

April 13, 2010

The Honorable John P. Gettys
Special Probate Judge for Chester County
P. O. Box 219
York, SC 29745

RE: Estate of Reba P. Hinson
2008-ES-12-0297 (Chester County)
2010-ES-46-0265 (York County)
Our File Number - 12085.1

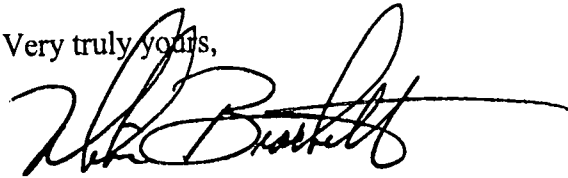
LOIS H. RODDEY
JUDGE OF PROBATE
2010 APR 20 A 10:35
PROBATE COURT
CHESTER COUNTY S.C.

Dear Judge Gettys:

Enclosed please find the proposed Order that you requested at the conclusion of the hearing yesterday. By copy of this letter, a copy of the enclosed proposed Order is being provided to Mr. Woods.

Please let me know if you require revisions, or if you prefer that I email the order to you in Word or in Word Perfect.

Very truly yours,



B. Michael Brackett

BMB/lta

cc. Robert H. Breakfield, Esquire
Mell Woods

4-19-10
Judge Gettys signed an
Order in Reba Hinson
Estate. - Kelly is sending
us the original and
one copy - Clerk is to
send to attorney - she
is keeping a copy for
their file
Mailed to Mr. Brackett 4-20-10

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309

B. Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.c

June 10, 2010

Mell Woods
P. O. Box 2603
Lancaster, SC 29721

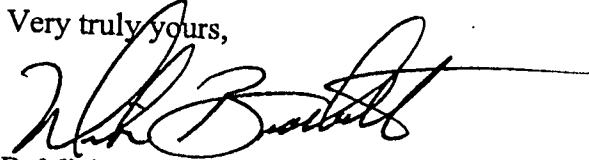
RE: Appeal of Probate Court Order
2010-CP-12-0201
Our File Number - 12085.1

LUIS H. RODDEY
JUDGE OF PROBATE
2010 JUN 11 A 10:53
PROBATE COURT
CHESTER COUNTY S.C.

Dear Mr. Woods:

I understand from the Clerk of Court that you have filed Grounds of Appeal in the latest Appeal from Probate Court. Although filing with the Court indicates that the Grounds of Appeal were served on me by mail, please be advised that I have not received anything from you since having received the Notice of Appeal.

Very truly yours,



B. Michael Brackett

BMB/Ita

cc. Chester County Probate Court
York County Probate Court
Robert H. Breakfield, Esquire

STATE OF SOUTH CAROLINA
COUNTY OF: CHESTER
IN THE MATTER OF: REBA P. HINSON

IN THE PROBATE COURT
INVENTORY AND APPRAISEMENT
LOUIS H. RODDEY
JUDGE OF PROBATE
CASE NUMBER: 2008es1200297

2009 OCT - 5 P 12:09

☒ ORIGINAL
☐ SUPPLEMENTAL #

PROBATE COURT
CHESTER COUNTY S.C.

Personal Representative (s): Robert H. Breakfield

Decedent's Social Security Number: 249-07-2826

Was there a will? ☒ YES ☐ NO

Decedent's Date of Death: January 3, 2007

Domicile at death:

Chester
(county)

SC
(state)

I, the undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this decedent so far as the undersigned is informed: that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

FORN to me this 1st day of October 2009
Patricia Davis
Notary Public for South Carolina
Commission Expires: 1-16-2019

Signature:

Name: Robert H. Breakfield

Address: P.O. Box 36061

Rock Hill, SC 29732

E-Mail: breakfieldb@compurium.net

Telephone (O): 803-329-4920

(H):

Signature

Name:

Address:

E-Mail:

Telephone (O):

(H):

Attorney:
Address:
E-Mail:
Telephone:

For estates of decedents, the gross fair market valuation of all assets, regardless of situs, should be given as of the date of death. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting or adding to an original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset, the value of which may be subject to reasonable doubt. If an appraiser is employed, his/her name and address should be indicated with the item or items he/she appraised.

Within ninety (90) days following appointment, a copy of the inventory and appraisal shall be sent to each interested person who requests it, and the original inventory filed with the Probate Court.

RECAPITULATION

	Non-Probate	Probate
Schedule A - Real Estate	\$	\$ 0.00
Schedule B - Stocks and Bonds		0.00
Schedule C - Notes Due Decedent and Cash		475,915.56
Schedule D - Insurance on Person's Life: Part 1 - Payable to Estate		0.00
Part 2 - Payable to Beneficiary		0.00
Schedule E - Jointly Owned Property		0.00
Schedule F - Other Miscellaneous		0.00
Other Assets Payable to Estate		0.00
Schedule G - Transfers during Decedent's life		0.00
Schedule H - Powers of Appointment		0.00
Schedule I - Annuities and Retirement Accounts	48,984.62	70,695.96
TOTAL GROSS VALUE	\$ 595,596.14	
ENCUMBRANCES	(0.00)	
TOTAL NET WORTH	\$ 595,596.14	

570

WHEN COMPLETING THE FOLLOWING SCHEDULES, PLEASE REMEMBER TO LIST ALL ASSETS, REGARDLESS OF SITUS. ALL OUT-OF-STATE ASSETS MUST BE DISCLOSED.

SCHEDULE A - Real Estate (All interest in real property except those held with right of survivorship) (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

Item No.	Description (include county and state)	Tax Assessor's Fair Market Value for year of Decedent's Death	Appraised Value	Appraised Value of Decedent's Interest

TOTAL SCHEDULE A

(also enter under recapitulation, page 1)

\$ _____ NON

SCHEDULE B - Stocks and Bonds (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

Item No.	Description	Face Value	Appraised Value

TOTAL SCHEDULE B

(also enter under recapitulation, page 1)

\$ _____ NON

SCHEDULE C - Notes due to Decedent, and Money on hand and in banks (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

Item No.	Description	Value
1.	Cash received from Kathy Huffstickle	
2.	Promissory Note from Kathy Huffstickle	\$200,000.00
3.	Cash received from Lois H. Griffin	60,651.42
4.	Wachovia Bank CD (86,376.06 & 43,730.68)	16,000.00
5.	Founders Federal CU	130,106.74
		69,157.40

TOTAL SCHEDULE C

(also enter under recapitulation, page 1)

\$ _____ 475,915.56

(If more space is required, insert tax schedules or additional sheets of same size.)

Life Insurance Payable to the Estate

\$ 0.00

so enter under recapitulation, page 1)

\$ 0.00

also enter under recapitulation, page 1).

SCHEDULE E - Jointly owned Property (with right of survivorship): (if none, so state.)
 You must complete Schedule E if the Decedent owned any property jointly with right of survivorship at the time of death, whether or not the decedent's interest is included in the gross estate.

Joint interest held by decedent and spouse - the amount included is one-half (50%) of the value in all cases. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant(s). The amount included is the amount of the decedent's contribution to the joint account(s).

Appraised Value of

\$ 0.00

(also enter under recapitulation, page 1)

Page 3 of 7.

[illegible]

(also enter under recapitulation, page 1)

69

SCHEDULE G - Transfers During Decedent's Life - Transfers intended to take effect at death. United States Government Bonds "Payable on Death", Trust created by Decedent in which income for life was retained; power to revoke or other incidents of ownership retained, life insurance transfers. Lifetime transfers of real property in which decedent retains a life estate or other incidents of ownership.

☐ YES ☒ NO

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

(also enter amounts payable to estate under recapitulation, page 1)

\$ _____

FORM #350PC (2/2004)

SCHEDULE H - Powers of Appointment Property, both real and personal, over which Decedent possessed a Power of Appointment whether exercisable or otherwise.

1 Did Decedent possess a Power of Appointment? ☐ YES ☒ NO

yes, did Decedent exercise the power of appointment in favor of estate? ☐ YES ☐ NO

yes, please describe and list total amount payable to estate. \$ _____
(more space is required, insert additional sheets of same size.)

TOTAL SCHEDULE H \$ 0.00
(also enter amounts payable to estate under recapitulation, page 1)

SCHEDULE I - Annuities and retirement (IRA's, 401(k), Etc.)

1 Decedent own any accounts as described above? ☒ YES ☐ NO

yes*, is the estate designated as the beneficiary of these accounts? ☒ YES ☐ NO

yes*, please describe and list total amount payable to estate. \$ 70,695.96
(more space is required, insert additional sheets of same size.)

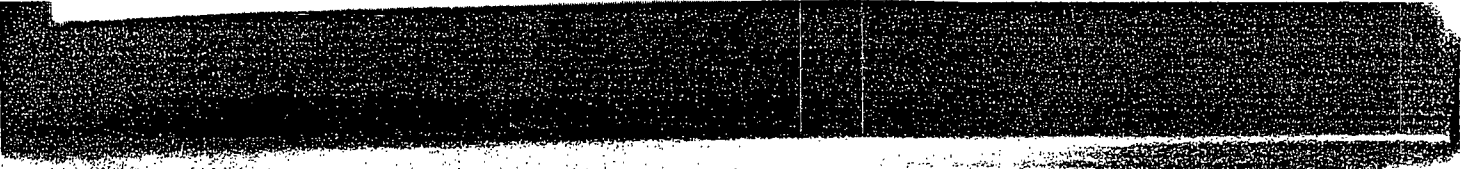
TransAmerica #26863866 (pd. \$70,695.96 less Fed. taxes withheld of \$2365.75 = \$68,330.21

unlife Financial Annuity - KA 00053810-2 payable to named benes. - Lois H. Griffin, John C. Hinson & Kathy Huffstickle, 12,097.38

Western-Southern Life Annuity - 26863866, payable to Lois H. Griffin, Kathy Huffstickle & John Hinson, \$36,887.27

TOTAL SCHEDULE I \$ 70,695.96

-574-



576

ROBERT HAROLD BREAKFIELD
ATTORNEY AT LAW

THE SQUARE AT CONSTITUTION * 1590-02 CONSTITUTION BLVD.
P.O. BOX 36061 * ROCK HILL, SOUTH CAROLINA * 29732
TELEPHONE (803) 329-4920 * FAX (803) 329-0476
breakfieldb@comporium.net

October 12, 2010

The Honorable Lois H. Roddey
P. O. Drawer 580
Chester, SC 29706

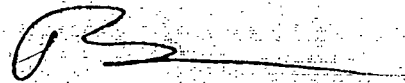
LOIS H. RODDEY
JUDGE OF PROBATE
2010 OCT 14 P 1:06
PROBATE COURT
CHESTER COUNTY S.C.

Re: Estate of Reba Hinson

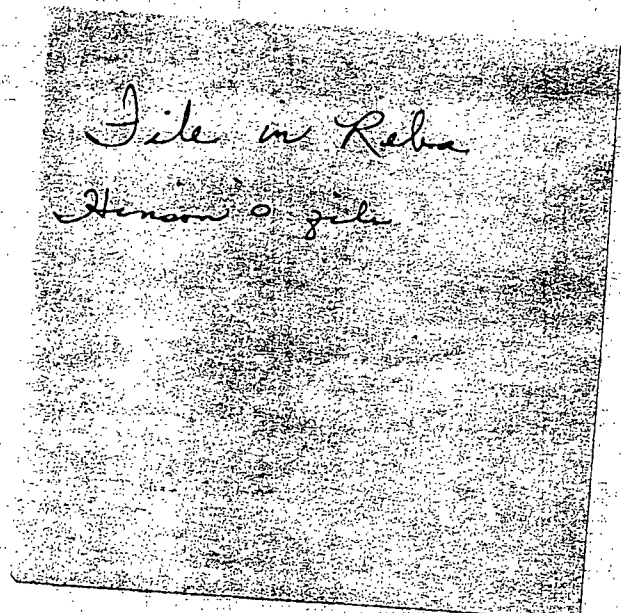
Dear Judge Roddey,

Per our conversation of today's date, I have enclosed for your files
the filed Order Affirming Probate Court and Order Partially Dismissing
Claims. These Orders refer to Mell Woods' claims against the Estate.

With kindest regards,


Robert H. Breakfield

RHB/psd
Enclosures



STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
2010-CP-12-0201
(Appeal from Probate Court)

In the Matter of the Estate of Reba P. Hinson

Mell Woods,

Appellant,

v.

Robert H. Breakfield, Esquire, as
Personal Representative,

Respondent.

ORDER AFFIRMING
PROBATE COURT

COPY
LOIS H. RODDEY
JUDGE OF PROBATE
CLERK OF COURT
CHESTER CO. S.C.
2010 OCT 14 P 1:06
2010 OCT -5 A 11:34
PROBATE COURT
CHESTER COUNTY S.C.
FILED

This is an appeal from Probate Court. The hearing on Appellant's grounds of appeal was held on September 8, 2010. In attendance were the Appellant, appearing pro se, and the Respondent and his attorney Mike Brackett. The record from the Probate Court and the arguments of the parties establish the following history: The action involved in this appeal was commenced by the Appellant's Petition for Removal of Personal Representative dated January 22, 2010. Attached to the Petition was a document titled "Motion for Removal of Personal Representative." The Petition identified the grounds for removal as "Misadministration of estate by failing to post bond, and by probating the wrong will." The Motion for Removal identified the grounds as failure to give bond after a demand for bond was made, and other "mismanagement items," not identified in the motion with any particularity.

Appellant thereafter filed his "Verified Petition to Vacate the Chester County Probate Court Order Entered in the Above-Styled Case on February 18, 2009; [and] Motion For Removal

to Circuit Court.” This pleading was dated February 17, 2010.¹

The Personal Representative filed and served an Answer to the Petition for Removal of Personal Representative. The Personal Representative also filed and served a consolidated Motion to Dismiss the Petition to Vacate Order and a Return to the Motion to Remove the Petition to Vacate to Circuit Court.

The hearing on the Appellant’s two Petitions and related motions was held in the Probate Court on April 12, 2010.² Following the hearing the Probate Judge issued his Order dated April 19, 2010. The Order contained three rulings: (1) it denied the Appellant’s Petition for Removal of the Personal Representative for cause; (2) it denied the motion to remove to Circuit Court the Petition to Vacate; and (3) it denied Appellant’s Petition to Vacate the Probate Court’s February 18, 2009 Order of Formal Testacy.³

In his Notice of Appeal filed on April 30, 2010, Appellant identified two subjects as “partial grounds” for the appeal: (1) the Probate Judge did not recuse himself from the matter when he had knowledge that a family member had some past involvement in the matter, and (2) that the Probate Judge refused to issue subpoenas for witnesses that the Appellant wanted to subpoena to the hearing.

On June 4, 2010 the Appellant filed two “additional grounds” for his appeal: (3) that the probate court erred in not removing the Personal Representative for his failure to provide bond,

¹ Although the Probate Court denied the relief sought in the Petition to Vacate Order and the Motion to Remove the proceeding to Circuit Court, the Appellant did not appeal those rulings.

² The hearing was held in York County because the Chester County Probate Judge recused herself from the proceeding and the York County Probate Judge was appointed to serve as Special Probate Judge for Chester County in matters related to this estate.

³ As indicated in footnote 1 above, rulings 2 and 3 were not appealed.

and (4) that the probate court erred in failing to rule that the wrong will is being probated.

Appeals from probate court to circuit court are heard and decided according to the rules governing appeals to the higher appellate courts. Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 31 (2d ed.2002) and cases cited therein. The circuit court is to apply the same standard of review that the Court of Appeals or Supreme Court would apply on appeal. Id. The hearing in the circuit court must be strictly on appeal, and no new evidence may be presented. S.C. Code Ann. §62-1-308(d).

During the hearing the Appellant, on the record, orally withdrew his ground of appeal no. three, the ground alleging error with respect to bond. The hearing proceeded on the three remaining grounds of appeal.

On the issue of recusal, the record indicates that no motion or request for recusal was made to the probate judge. This subject was not raised to and ruled upon by the trial court and was first raised in the Appellant's partial grounds of appeal. The subject was not addressed in the Probate Court's April 19, 2010 Order, and it was not raised by the Appellant in a Rule 59 motion. Consequently, it is not preserved for appeal. Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 55 (2d ed.2002), citing Hubbard v. Rowe, 5 S.E.2d 187 (S.C. 1939) (questions presented for appellate review must first have been fairly and properly raised in the lower court and passed upon by that court); and I'On, L.L.C. v. Town of Mt. Pleasant, 526 S.E.2d 716 (S.C. 1993) (if the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a Rule 59 motion to alter or amend the judgment in order to preserve the issue for appellate review).

Likewise, on the issue of the probate judge not issuing subpoenas for appellant's use, no objection or motion on the subject was raised at the probate court hearing, the issue was not raised to and ruled upon by the trial court and was first raised in the Appellant's partial grounds of appeal, the issue was not addressed in the Probate Court's April 19, 2010 Order, and it was not raised by the Appellant in a Rule 59 motion. Additionally, the record of the April 12, 2010 hearing reveals that the Appellant did not identify who he would have subpoenaed, nor did he make a proffer of what the witness(es) were expected to offer in the way of relevant and admissible evidence. Consequently, based on the authorities cited above, this ground of appeal was not preserved for appellate review.

With respect to the issue of the Probate Court's decision as to which Last Will was to be admitted to probate, an action challenging a last will is at law. Estate of Hicks, 327 S.E.2d 343 (S.C. 1985). In law cases, this court, as an appellate court, has jurisdiction merely for correction of errors of law and will not disturb the findings of the probate judge unless they are found to be without evidence which reasonably supports the findings. Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 176 (2d ed.2002). In this instance, the Appellant has failed to carry his burden to demonstrate to this Court that the Probate Court committed an error of law in ruling that the decedent's June 23, 1998 last will was to be admitted to probate. Evidence in the record of the April 12, 2010 hearing shows that the admission of the decedent's June 23, 1998 last will to probate was pursuant to a family settlement agreement among the decedent's heirs and/or devisees, not including the Appellant who is a stranger to the estate.

Additionally, the Probate Court's conclusion that the Appellant lacks standing to object

to or contest the decedent's last will is well supported by persuasive authorities and precedent.

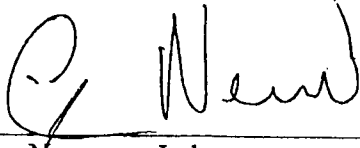
Quoting from the Probate Court's April 19, 2010 Order:

To have standing, one must generally have a personal stake in the subject of the lawsuit, i.e., one must be a real party in interest. Evins v. Richland County Historic Preservation Comm., 532 S.E.2d 876 (S.C. 2000). A real party in interest is one who has a real, material, or substantial interest in the subject matter of the action, as opposed to one who has only a nominal or technical interest in the action. Sloan v. Friends of the Hunley, Inc., 630 S.E.2d 474 (S.C. 2006). Generally, a creditor of the decedent cannot contest her will. 3 Bowe-Parker: Page on Wills §26.60. Other authorities supporting this principle of law include: 3 Bowe-Parker: Page on Wills §26.52 (one who would not take more if the will in question were held to be invalid than he would take if it were held to be valid cannot, by the weight of authority, contest the will in question); Baker v. Henderson, 69 S.E.2d 278 (Ga. 1952) (if petitioners will not be injured or benefitted by the establishment and probate of the alleged copy will, they are strangers to it and are not proper parties to the litigation); Estate of Keener, 521 N.E.2d 232 (Ill. App. 1988) (even if the latest will was invalid, earlier wills failed to name the contestant, so he was not entitled to contest); Matter of Wharton, 453 N.Y.S.2d 308 (1982) (generally a person who is not a distributee of the decedent and who will receive no part of a decedent's estate if a will is denied probate, will not be permitted to file objections to probate. The exception is when a person is named in a prior will and his interest under the prior will is greater than under the propounded will).

Accordingly, for the reasons stated hereinabove, the Chester County Probate Court's Order dated April 19, 2010 is affirmed, the Appellant's appeal is dismissed, and this matter is remitted to the Probate Court for continued estate administration according to applicable law and procedure.

IT IS SO ORDERED.

September 30, 2010


Clifton Newman, Judge

FILED
2010 OCT -5 A 11:34
CLERK OF COURT
CHESTER CO S.C.

COP

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-12-0168

(Removed from Probate Court)

In the Matter of the Estate of Reba P. Hinson

Mell Woods,

Plaintiff/Claimant,

v.

Robert H. Breakfield, Esquire, as
Personal Representative,

Defendant.

ORDER PARTIALLY DISMISSING
CLAIMS

LOIS H. RODDEY
JUDGE OF PROBATE
PROBATE COURT
CHESTER COUNTY S.C.
2010 OCT 14 P 1:06
2010 OCT -5 A 11:35
FILED
CLERK OF COURT
CHESTER CO S.C.

The Defendant's Motion for Dismissal of Claims was heard on September 8, 2010. In attendance were the Plaintiff, appearing pro se, and the Defendant and his attorney Mike Brackett.

It is made to appear to the Court by the arguments of the parties and by the probate court file¹ that Claimant Mell Woods filed a claim against the estate on or about November 9, 2009. The Personal Representative disallowed the claim by notice dated and served November 10, 2009. On December 9, 2009 Claimant filed and served a Petition for Allowance of Claim, a Demand for Jury Trial and a Motion to Remove his action for allowance of claim to Circuit Court. On or about December 24, 2009, the Personal Representative filed and served his Return to Claimant's motion to remove, and filed and served a motion to dismiss portions of Claimant's

¹ In considering a Rule 12(b)(6) motion, the Court may consider items subject to judicial notice without converting the motion to a summary judgment motion, 5B Wright & Miller, Federal Practice and Procedure: Civil 3d §1357, such as matters of public record, Norfolk Southern Ry. Co. v. Shulimson Bros. Co., 1 F. Supp. 2d 553 (W.D.N.C. 1998), and prior judicial proceedings, Briggs v. Newberry County School Dist., 838 F. Supp. 232 (D.C.S.C. 1992), affirmed 989 F.2d 491 (4th Cir. 1993).

Petition. On February 3, 2010, immediately prior the hearing, Claimant filed an "Amendment of Claim" that rendered portions of the Personal Representative's Return moot.

The Probate Court motion hearing on February 3, 2010 resulted in an Order removing the claim proceeding to Circuit Court. The Order expressly provided that "This decision is without prejudice to the Personal Representative's pending motions." The matter was removed to Circuit Court and was assigned the above-captioned case no.

At the September 8, 2010 hearing, the Claimant confirmed on the record that he was proceeding only on the claims as set out in his "Amendment of Claim." The amended claim sets out three separate claims, or causes of action: (1) nuisance caused by alleged illegal discharge of sewage into the lake, (2) conversion resulting from the Personal Representative's probating of the "wrong will," and (3) unspecified damages suffered by Claimant because of actions of attorney Ned Gregory and the Personal Representative.

The nuisance claim is not a subject of the motion to dismiss.

The claim for conversion is based on the Claimant's allegation that the wrong will is being probated, and that by probating the wrong will the Claimant's building will be lost to the remaindermen to the decedent's life estate. The issue of whether the right or wrong will is being probated has already been heard and decided by the Probate Court. In formal testacy and appointment proceedings heard on or about February 17, 2009, the Probate Judge ordered that the decedent's Last Will and Testament dated June 23, 1998 be admitted formally to probate. Consequently, the decision regarding the particular last will that would be probated was the decision of the court and not the Personal Representative. The Claimant was not a party to the February 17, 2009 formal proceedings because he is not a named devisee in any last will signed by the decedent and he had not then filed a claim against the estate. No member of decedent's

family appealed from the formal testacy and appointment orders dated February 17, 2009.² Additionally, the issue of Claimant's allegation that the wrong will is being probated was heard by the Probate Court in a separate proceeding in which the Claimant sought the involuntary removal of the Personal Representative on the ground that he was probating the wrong will. In an Order dated April 19, 2010 the Probate Judge concluded, among other reasons, that the Claimant lacked standing to object to or contest the decedent's last will. The Claimant appealed that Order to this Court, case no. 2010-CP-12-0201, and the Probate Court Order was affirmed on appeal.³

In addition to his lack of standing to raise the issue that is the basis of his second cause of action, Claimant is now barred by collateral estoppel and *res judicata* from relitigating the issue of the right/wrong will.

Under the doctrine of collateral estoppel, once a final judgment on the merits has been reached in a prior claim, the relitigation of those issues actually and necessarily litigated and determined in the first suit are precluded as to the parties and their privies in any subsequent action based upon a different claim. Roberts v. Recovery Bureau, Inc., 450 S.E.2d 616 (S.C. App. 1994).

When claims arising out of a particular transaction or occurrence are adjudicated, *res judicata* bars the parties to that suit from bringing subsequent actions on either the adjudicated issues or any issues that might have been raised in the first suit. Plott v. Justin Ent., 649 S.E.2d 92, 95 (S. C. App. 2007). *Res judicata* requires proof of three elements: 1) a final, valid

² The formal testacy and appointment Orders dated February 17, 2009 are contained in the Form 300 in the Probate Court's estate file.

³ The Probate Court Order dated April 19, 2010 appealed in case no. 2010-CP-12-0201 and this Court's Order affirming the Probate Court in the same case are incorporated herein by reference.

judgment was entered on the merits of the first suit; 2) the parties to both suits are the same; and 3) the subsequent action involves matters properly included in the first action. Id.

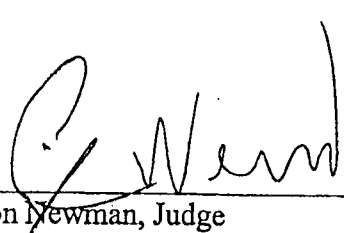
Accordingly, the second claim alleging conversion due to the probating of the wrong will be dismissed.

The third claim does not allege sufficient facts to constitute an independent claim or cause of action and does not satisfy the pleading requirements of the rules of civil procedure. The third claim is therefore dismissed.

The only claim remaining at this time is the claim alleging nuisance against the decedent's estate.

IT IS SO ORDERED.

September 30, 2010


Clifton Newman, Judge

FILED
2010 OCT - 5 11:35
CLERK OF COURT
CHESTER CO S.C.

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309

LOIS H. RODDEY
JUDGE OF PROBATE

2010 JAN 29 4:11:03
B. Michael Brackett
Direct Dial: (803) 461-2312
PROBATE COURT
CHESTER COUNTY S.C.
mkb-law.com

January 28, 2010

The Honorable Lois H. Roddey
Chester County Probate Judge
P. O. Drawer 580
Chester, SC 29706

RE: Estate of Reba P. Hinson
08-ES-12-0297
Our File Number - 12085.1

Dear Judge Roddey:

Enclosed for filing please find the Personal Representative's Answer to the Petition of Mr. Mell Woods for Removal of the Personal Representative. By copy of this letter, a copy of the enclosed Answer is being served upon Mr. Woods. Please return a clocked copy of the Answer using the envelope provided.

Very truly yours,


B. Michael Brackett

BMB/Ita
Enclosures

cc. Robert P. Breakfield, Esquire
Mr. Mell Woods

1-29-2010
Per Judge Roddey
Clock in - File
Return clocked copies
587



Chester County, South Carolina

LOIS H. RODDEY, JUDGE OF PROBATE
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

February 11 2010

Mrs. Sue Carpenter
Clerk of Court
P. O. Drawer 580
Chester, SC 29706

Re: Estate of Reba P. Hinson
Case No. 2008ES1200297

Dear Mrs. Carpenter:

According to SC Code Ann. 62-1-308(b) when an appeal is taken from Probate Court to Circuit Court, "the Probate Court shall make a return to the Appellate Court of the testimony, proceedings and judgment and file it in the Appellate Court". Enclosed please find the following certified documents for the appeal that Mell Woods has filed concerning an Order issued by Judge Gettys, as Special Probate Judge for Chester County, dated April 19, 2010:

1. Petition for Removal of Personal Representative dated January 22, 2010.
2. Answer of Robert H. Breakfield, as Personal Representative, to the Petition for Removal of Personal Representative filed January 29, 2010.
3. Verified Petition to Vacate the Chester County Probate Court Order Entered in the Above - Styled Case on February 18, 2009: Motion for Removal to Circuit Court.
4. Personal Representative's Motion to Dismiss Mell Woods' Petition to Vacate Order and Personal Representative's Return to Mell Woods' Motion to Remove Petition to Circuit Court.
5. Transcript of Proceedings, York, South Carolina, April 12, 2010.
6. Judge Getty's Order, dated April 19, 2010 and filed April 20, 2010.

Please let us know if there are any other documents that you need.

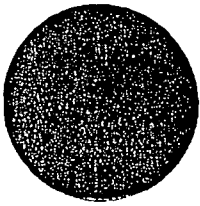
Yours truly,

Lois H. Roddey
Lois H. Roddey
Judge of Probate

tbz

cc: Mr. B. Michael Brackett
Mr. Mell Woods

Enclosures



Chester County, South Carolina

LOIS H. RODDEY, JUDGE OF PROBATE
POST OFFICE DRAWER 580
CHESTER, SOUTH CAROLINA 29706

February 11 2010

Mrs. Sue Carpenter
Clerk of Court
P. O. Drawer 580
Chester, SC 29706

Re: Estate of Reba P. Hinson
Case No. 2008ES1200297

FILED

CLERK OF COURT
CHESTER CO S.C.
2011 FEB 11 P 3:25

Dear Mrs. Carpenter:

According to SC Code Ann. 62-1-308(b) when an appeal is taken from Probate Court to Circuit Court, "the Probate Court shall make a return to the Appellate Court of the testimony, proceedings and judgment and file it in the Appellate Court". Enclosed please find the following certified documents for the appeal that Mell Woods has filed concerning an Order issued by Judge Gettys, as Special Probate Judge for Chester County, dated April 19, 2010:

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5. Transcript of Proceedings, York, South Carolina, April 12, 2010.
6. Judge Getty's Order, dated April 19, 2010 and filed April 20, 2010.

Please let us know if there are any other documents that you need.

Yours truly,

Lois H. Roddey
Lois H. Roddey
Judge of Probate

tbz

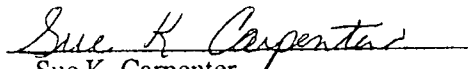
cc: Mr. B. Michael Brackett
Mr. Mell Woods

Enclosures

February 11, 1011

The following certified documents concerning the Estate of Reba P. Hinson (Case No. 2008ES1200297) have been received in the Chester County Clerk of Court's Office from the Chester County Probate Court:

1. Petition for Removal of Personal Representative dated January 22, 2010.
2. Answer of Robert H. Breakfield, as Personal Representative, to the Petition for Removal of Personal Representative filed January 29, 2010.
3. Verified Petition to Vacate the Chester County Probate Court Order Entered in the Above-Styled Case on February 18, 2009; Motion for Removal to Circuit Court.
4. Personal Representative's Motion to Dismiss Mell Woods' Petition to Vacate Order and Personal Representative's Return to Mell Woods' Motion to Remove Petition to Circuit Court.
5. Transcript of Proceedings, York, South Carolina, April 12, 2010.
6. Judge Getty's Order, dated April 19, 2010 and filed April 20, 2010.


Sue K. Carpenter
Chester County Clerk of Court

FILED
2011 FEB 11 P 3:12
CLERK OF COURT
CHESTER CO S.C.

June 27, 2007

Mell Woods
P.O. Box 2603
Lancaster, SC 29721

The Honorable Lois Roddey
Judge of Chester County Probate Court
Chester County Courthouse
Chester, South Carolina

Hand Delivered.

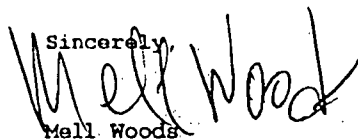
Dear Judge Roddey:

This is in regard to Mrs. Reba Hinson. Mrs. Hinson died late last year and there is nothing on file concerning her estate. Perhaps there is nothing to file, however I have an interest in knowing if the estate is going to be probated. I spoke to you about this several months ago and you checked and verified that nothing had been filed. And I am sure nothing was there on the day I talked to you about this. However since that time, some of the Hinson heirs have been talking about seeing certain papers that have been prepared for filing. If you have any informal letters, papers, documents, or anything that is not in the record yet, please furnish these to me under the South Carolina Freedom of Information Act.

Request for Records Under the South Carolina Freedom of Information Act:

You are requested to release to the undersigned requestor, *All the papers, cards, tapes, photographs, maps, books, or other documentary material* retained by you in regard to Mrs. Reba Hinson; everything that is filed in the Court Record and is available for public inspection is not meant to be part of this request. Please note that this request is to view and inspect the actual records, but is not a request for copies [at the present time]. The listed records are public and subject to release under current South Carolina statutory and case law; and no record released will be used for a commercial purpose.

Sincerely,


Mell Woods

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER
IN THE MATTER OF THE ESTATE
OF REBA P. HINSON, Probate
No: 2008-ES-12-00297

MELL WOODS,

PLAINTIFF-CLAIMANT,

V.

ROBERT H. BREAKFIELD,
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF REBA P. HINSON,
DEFENDANT.

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CIVIL CASE NO. 2010-CP-12-00-

168

FILED
2010 NOV - 9 PM 4:38
CLERK OF COURT
CHESTER CO S.C.

COPY

MOTION TO AMEND COMPLAINT, ADD PARTIES, MOTION TO
RECONSIDER, AND TO ALTER OR AMEND JUDGMENT

NOW COMES Mell Woods, a party in the above-styled case, and moves that the Honorable Circuit Court for the SIXTH Judicial Circuit allow plaintiff to amend the complaint filed in this multi-claim case since some of the claims were dismissed by the Court as "inadequate", allow plaintiff to state the full facts of each claim, add parties, and reconsider, alter, or amend the Order entered in this case by Clifton Newman, presiding on September 08, 2010, for the following reasons to wit:

1.

This motion is timely; although Judge Newman heard the case on September 08, 2010, no one got around to filing a court order with the clerk of court until about a month later, and then about another month later, or on October 31, to be exact, the moving party in this case received a copy of the court order from the defense attorney, Mr. Brackett, via the U.S. Mail; this Motion to Reconsider, and to Alter or Amend Judgment is being filed with the clerk, and served on defense counsel within ten days of the receipt of the court order on October 31, 2010;

2.

Under Rule 15(a), SCRCP, a complaint can be amended with permission of the Court; this rule has been backed up by the U.S. Supreme Court, and several S.C. Cases; Forman v. Davis, 371 U.S. 178, @ pg. 182, Simmons & Carlisle, 297 S.C. 91;

3.

The court order for the hearing held September 8, 2010, drawn by Mr. Brackett, the defense counsel, not the circuit court judge, rules that any further action in this case is barred by *res judicata*; this presumption is untrue, because the case is under appeal, and even if the case were not under appeal, law of the case does not attach because clear evidence of ex-trinsic fraud has been established;

4.

Plaintiff proposes to add Ned Gregory, II., known to the South Carolina Court System as a document forger in case of: In The Matter of Ned Gregory, II., Respondent, 369 S.C. 270; Gregory participated in the forging of documents in the present probate case, and under oath; specifically, Gregory drew a document used to suborn perjury, with the end result being the wrong will probated; such conduct fits the definition of EX-trinsic fraud practiced upon South Carolina Courts, and is no different from the conduct of the defense counsel in the Ford case, Chewning v. Ford Motor Co., 354 S.C. 72;

5.

There is no statute of limitation where extrinsic fraud occurs, and shuts a party out of

court by method of preventing the party from fully presenting his case; this is exactly what has happened here;

6.

The partial record in this case, not the record in the Appeal to Circuit Court, or companion case, which requires an original, *full* record, (which has NOT been transmitted to the Circuit Court), this partial record, however, does show that plaintiff had contacted the probate court about the real will on various occasions, and that the real will had been concealed by Gregory (as above), and the first probate judge;

7.

The only response that plaintiff could ever obtain from the first probate judge is that she had "seen" several wills, but was not ready to pick one; South Carolina Law has a very specific statute



to cover such situations: Section 62-2-901 Delivery And Suppression of Wills, which mandates that the probate judge SHALL publish the fact that one or more wills are being kept by the probate court "in one of the newspapers in the county for fifteen days"; in Chester County the newspaper is published only two times a week, so the amount of weeks needed to comply with the cited law is seven; this law was not complied with, and plaintiff even filed a motion demanding that it be done; the motion has never been ruled on, but only ignored; plaintiff wants his motion ruled on, one way, or the other;

8.

To cover up and suppress a will is part and parcel of fraud; where the State of South Carolina goes to the trouble of enacting a specific law to deal with a set of facts, and the law is totally

ignored, the law should either be abolished, or enforced, one, or the other; in this case, coupled with the hiding of the will, a document forger manipulating the first probate court, and signed records showing perjury, it is artificial at best to claim or imply that plaintiff was not a part of the February 17, 2009, formal proceedings by waiver; more to the point, plaintiff was left out on purpose by the forger, Gregory, identified herein;

9.

Under South Carolina law formal proceedings cannot be had without notice to all interested persons -- and plaintiff was not notified although plaintiff had notified the probate judge in 2007, two years before, that plaintiff was, and still is an interested person; (please see in this regard S.C. Statute 62-1-201(15) formal proceeding defined);

10.

Please see the attached letter from plaintiff-claimant to the probate Judge, dated June 27, 2007, this letter is nothing new and has been in the first probate Judge's office all along, although not necessarily in the public file; Gregory saw the letter, knew about the letter, and told the first probate Judge to keep the letter, and the real will under wraps, until the case was over;

11.

WHEREFORE, plaintiff asks that the complaint and claim be amended to bring in Ned Gregory, II., as a party with the amendment to show that plaintiff is pursuing this matter as an independent action for ex-trinsic fraud against a South Carolina Court, with Gregory as the defendant;

12.

WHEREFORE, plaintiff asks that the so-called
"formal proceeding" carried on by Gregory in the
probate court be declared null, and void.

Respectfully submitted,

This 09 day of November, 2010.

COPY

Mell Woods

P.O. Box 2603
Lancaster, SC 29721

FILED
2010 NOV -9 1 P 4:38
CLERK OF COURT
CHESTER CO S.C.

June 27, 2007

Mell Woods
P.O. Box 2603
Lancaster, SC 29721

The Honorable Lois Roddey
Judge of Chester County Probate Court
Chester County Courthouse
Chester, South Carolina

Hand Delivered.

Dear Judge Roddey:

This is in regard to Mrs. Reba Hinson. Mrs. Hinson died late last year and there is nothing on file concerning her estate. Perhaps there is nothing to file, however I have an interest in knowing if the estate is going to be probated. I spoke to you about this several months ago and you checked and verified that nothing had been filed. And I am sure nothing was there on the day I talked to you about this. However since that time, some of the Hinson heirs have been talking about seeing certain papers that have been prepared for filing. If you have any informal letters, papers, documents, or anything that is not in the record yet, please furnish these to me under the South Carolina Freedom of Information Act.

Request for Records Under the South Carolina Freedom of Information Act:

You are requested to release to the undersigned requestor, All the papers, cards, tapes, photographs, maps, books, or other documentary material retained by you in regard to Mrs. Reba Hinson; everything that is filed in the Court Record and is available for public inspection is not meant to be part of this request. Please note that this request is to view and inspect the actual records, but is not a request for copies [at the present time]. The listed records are public and subject to release under current South Carolina statutory and case law; and no record released will be used for a commercial purpose.

A TRUE COPY
Lois H. Roddey
JUDGE OF PROBATE
CHESTER COUNTY, S.C.

Sincerely,
Mell Woods
Mell Woods

PROBATE COURT
CHESTER COUNTY S.C.

2007 JUN 28 P 1:46

LOIS H. RODDEY
JUDGE OF PROBATE

2010 NOV -9 P 4:38

CLERK OF COURT
CHESTER COUNTY S.C.

STATE OF SOUTH CAROLINA

COUNTY OF Chester

Mell Woods

Plaintiff,

vs.

Robert H. Breakfield

Defendant.

IN THE COURT OF COMMON PLEAS
Sixth JUDICIAL CIRCUIT

CASE NO.: 2010-CP-12-00-168

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

COPY

Plaintiff: <u>Mell Woods</u> , Bar No. <u>✓</u> Address: <u>P.O. Box 2603 Lancaster, SC 29721</u> Phone: _____ Fax: _____ E-mail: _____ Other: _____		Defendant's Attorney: <u>B. Michael Brackett</u> , Bar No. <u>Unknown</u> Address: <u>Box 100261 Coler, SC 29202</u> Phone: <u>803-461-2312</u> Fax: _____ E-mail: _____ Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information Nature of Motion: <u>Reconsideration, amend complaint and add parties</u> Estimated Time Needed: <u>30"</u> Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature: <u>[Redacted]</u>		Date submitted: <u>2010</u>	
☒ Plaintiff / ☐ Defendant			
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$ <u>25.00</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____, 20____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

Exhibit 7 is Page 48 from the deposition of appellant Mell Woods; this page has been misplaced; appellant will go to the court house and obtain a copy for the 15 copies required for the Court of Appeals.

Counsel for respondent already has this document.

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State of South Carolina
Court of Common Pleas
County of Chester
2010CP1200168

Mell Woods

VS.

Estate of Reba P. Hinson

Chester, South Carolina
February 2, 2011
Before the Honorable Brooks P. Goldsmith

APPEARANCES

For the Plaintiff: Pro Se

For the Defendant: Michael Brackett

REPORTED BY: Michael C. Watkins

Official Court Reporter

1 MOTION HEARING:

3

2 CERTIFICATE:

24

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NO EXHIBITS

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1 THE COURT: This is case 2010-CP-12-168, Woods vs.
2 Breakfield.

3 MR. WOODS: Yes, sir. Judge, my name is Mel Woods,
4 I'm on one of these, I don't know, one of them that is not
5 supposed to be on here, that one I don't think is supposed
6 to be on there. One was put on there by accident by the
7 clerk. And Mr. Brackett has just handed me another one of
8 his books that he writes which I have not had time to read
9 yet and I think he's got a motion for a summary judgment
10 that's later on in the morning.

11 THE COURT: We have two different matters on this
12 case?

13 MR. WOODS: Yes, sir. I think that first one was on
14 there by mistake, that was something that just got on
15 there. The second one --

16 THE COURT: Hold on just one minute. Apparently the
17 first thing that's scheduled on this case is something
18 entitled motion to amend complaint, add parties, motion to
19 reconsider and to alter or amend judgment.

20 MR. WOODS: Is that 168, or that other one, that's
21 210?

22 THE COURT: I have that down as 168.

23 MR. WOODS: All right. That one is still good to go.

24 MR. BRACKETT: If Your Honor please? Only the first
25 half of that is for this Court, the motion to amend and add

1 parties. The motion for reconsideration is presently under
2 advisement by Judge Newman.

3 MR. WOODS: Your Honor, Mr. Brackett, he likes to -- I
4 know he can put his case up but what he just said is not
5 correct. You didn't get the order from Judge Newman? He
6 has already done away with that.

7 MR. BRACKETT: That's in case 210, Mr. Woods.

8 MR. WOODS: That's in 210?

9 MR. BRACKETT: Yes, sir, it is.

10 MR. WOODS: So he's still going to decide on the other
11 one, is that what you are saying?

12 THE COURT: Let's go ahead. Apparently as best I can
13 hear from what the two of you are saying, the motion to
14 alter or amend has been heard by someone other than myself;
15 is that correct?

16 MR. WOODS: Yes, sir, Judge Newman.

17 THE COURT: All right. So Judge Newman has heard
18 that. So we're here now on Mr. Woods' motion to amend the
19 complaint and add parties; is that correct?

20 MR. WOODS: Yes, sir.

21 THE COURT: Is that correct?

22 MR. BRACKETT: Yes, sir. And I have a motion for
23 summary judgment pending as well that's supposed to be
24 heard today.

25 THE COURT: Let's try to do them one at a time. Let's

1 see, Mr. Woods, I will be glad to hear you on your motion
2 to amend your complaint and to add parties.

3 MR. WOODS: All right, sir. This case, it came from
4 probate court, it's been going on for four years. And what
5 happened to the case is they probated the wrong will, and
6 the reason that is is Ned Gregory, II he filled out
7 whatever his probate form, 300 PC, and when it asked him if
8 there were any other wills he got down here on the bottom
9 and it had -- can I bring it up there and show it to you?
10 Because it's a certified copy of the probate court.

11 THE COURT: Right now I just need for you to tell me
12 why it is you want to amend.

13 MR. WOODS: I want to amend because to put it bluntly,
14 he didn't swear to this but he drew the paper up and Mr.
15 Breakfield over here who was appointed the personal
16 representative signed the paper without knowing or without
17 reading it, and what they're talking about it being that he
18 knows of no other will, there's another will in the safe
19 over there at the probate court as to the actual will. And
20 what the whole thing is about, they've been probating the
21 wrong will all long and it's Ned Gregory's fault, he put
22 this notation in this paper and it's actually a fraud on
23 the court, not necessarily this one but the probate court,
24 that's the reason nothing can get done on this case.

25 THE COURT: So your motion is to be permitted to add

1 Ned Gregory?

2 MR. WOODS: Yes, sir, that's it.

3 THE COURT: As a defendant in the case?

4 MR. WOODS: Yes, sir. Because he's the cause of the
5 whole problem. I am familiar with the case, I have gone
6 through the whole thing and that's what happened.

7 THE COURT: And briefly tell me again, the reason you
8 want to add him as a party is because of what?

9 MR. WOODS: Because he made a false statement.

10 THE COURT: Let me back up and ask you another
11 question. What's this action all about?

12 MR. WOODS: Probating of a will.

13 THE COURT: Probating of a will.

14 MR. WOODS: Yes, sir. They're probating the wrong
15 one.

16 THE COURT: And you want Mr. Gregory to be a party to
17 this action because?

18 MR. WOODS: They've got a case called Chewning versus
19 Ford Motor Company that came from over there in Camden
20 County where Ford hired expert liars to go to court and lie
21 about the Bronco II, and when it finally got caught up with
22 them they added them all in an independent action to I
23 guess probably because the South Carolina courts were doing
24 that. If we could get Gregory in this case it could get
25 over.

7
1 THE COURT: Tell me again why you want to add Mr. Ned
2 Gregory to the lawsuit about the will?

3 MR. WOODS: At one time he drew a will back in the
4 nineties and the lady that he drew it for, Ms. Hinson, he
5 put stuff in there she didn't want and she took her pencil
6 and marked through it like this. And then she went on her
7 notebook paper and wrote her own will out in her own
8 handwriting because she couldn't get a lawyer to draw her
9 will like she wants, and then she went and got somebody to
10 type it up and got it witnessed and Ned Gregory put
11 something down here that the will is no good because it
12 wasn't. I have seen it, it is witnessed. And the actual
13 will --

14 THE COURT: Why wouldn't you just call him as a
15 witness in the case?

16 MR. WOODS: Well, to me he's the cause of this because
17 he put this notation in here. If I could call
18 Mr. Breakfield as a witness he will tell you that this was
19 already made out for him whenever he got it and this was
20 not of his doing.

21 THE COURT: All right.

22 MR. WOODS: I don't think we're here to call witnesses
23 today but that let's him off the hook. He's the one that
24 signed it but Gregory drew it up.

25 THE COURT: Let me hear from Mr. Brackett on this

1 matter.

2 MR. BRACKETT: Yes, sir. Your Honor, I have -- for
3 the record I have filed with the Court today and provided
4 copies to Mr. Woods a memorandum of law for both of the
5 pending motions. I have also filed and served my client's
6 affidavit in opposition to Mr. Woods' motion to amend. The
7 only thing the affidavit does really is to identify and
8 authenticate several documents and records to try and make
9 it as organized and understandable as I can for the Court.
10 The memorandum sets out the history, Your Honor. Mr. Woods
11 filed a claim against -- a statement of creditors claim
12 against the Reba Hinson estate in November of 2009.
13 Mr. Breakfield, who was the personal representative of the
14 estate, disallowed the claim. Mr. Woods then filed a
15 petition for allowance of claim, all of that is perfectly
16 proper according to the probate court procedure. We filed
17 certain motions with respect to the petition for the
18 allowance of claim. Those motions were scheduled to be
19 heard by Judge Gettys. Judge Gettys was the York County
20 Probate Judge but he was sitting by special designation in
21 this case so he was the special judge for Chester County.
22 Immediately before the hearing on my motions with respect
23 to Mr. Woods' claims, Mr. Woods filed an amended claim,
24 amendment of claim, that is attached to the affidavit that
25 is attached as exhibit number two. Now, his claim

1 against -- the original claim against the estate alleged
2 nuisance and other stuff on the Ned Gregory allegations, he
3 had all of that stuff in there somehow claiming about the
4 fact that the wrong will was being probated and it was Ned
5 Gregory's fault. When he filed his amended claim he
6 deleted that, took all of the Ned Gregory stuff out. We
7 then argued the motion before Judge Gettys, he removed it
8 to circuit court so you can write Judge Gettys a note and
9 tell him you appreciate that. He removed it to circuit
10 court which then led to September 8th of last year before
11 Judge Newman, I had certain motions to dismiss portions of
12 Mr. Woods' claim. Now, the amended claim had three causes
13 of action; there was nuisance and then there was the -- I
14 forget what they were now. Judge Newman dismissed -- my
15 motion to dismiss only pertained to causes of action two
16 and three in the amended claim or the amended petition,
17 Judge Newman granted that motion and he dismissed two of
18 the three causes of action Mr. Woods alleged leaving only
19 the nuisance cause of action. I then filed a motion for
20 summary judgment with respect to the nuisance cause of
21 action and that's what's pending also today. Now, the
22 problem in this case, the procedural problem to Mr. Woods,
23 if you look at the caption, Mr. Woods is the plaintiff, he
24 is attempting to get a money judgment against the estate.
25 He is not. He's not an heir of the decedent, he is not a

1 devisee in the decedent. The two wills that are sort of at
2 issue in this case, the one that was admitted to probate
3 and the one he thinks ought to be admitted to probate,
4 neither of those wills name him at all. His name doesn't
5 appear in either of the wills. He is at this point a
6 claimant who has filed a claim for money damages against
7 the estate, that claim has not yet been allowed by the
8 personal representative or by the Court. That is his only
9 status, that is his only connection with the estate. He
10 continues to want to somehow influence which last will gets
11 probated, he has no standing. That's not his concern which
12 will gets probated. Judge Gettys determined that in an
13 order, I've identified all of that in the memorandum, Judge
14 Gettys has already once held because Mr. Woods filed a
15 separate case where he complained about a state
16 administration matter, he didn't like the PR, he wanted a
17 bond, he wanted this and wanted that. And Judge Gettys
18 ruled in an order, that's in case 210, that is the other
19 case, ruled in an order that Mr. Woods has no standing to
20 insert himself into administration matters in the estate,
21 he just doesn't. His status as a claimant doesn't give him
22 the authority to come in and complain about those things.
23 So for that reason he's now come back in -- and he just
24 explained it to you, he wants to now amend his complaint to
25 add back in the Ned Gregory allegations and complain about

1 which will is being probated in the Reba Hinson estate.
2 I'm sorry, that's none of his business. As Judge Gettys
3 has previously ruled, he is a stranger to that estate.
4 Now, with respect to his entitlement to an amendment at
5 this stage I have set out two grounds in the motion; one it
6 is simply untimely at this point. He had Mr. Gregory in,
7 he voluntarily removed those allegations and now that we've
8 had some dispositive motions and things aren't going well
9 he wants to go back and amend to put the Ned Gregory
10 allegations back in. I don't think he is entitled to put
11 him in, take him out, put him in, take him out and just
12 continue with that game. We've undergone discovery after
13 he filed his amended claim, we have taken depositions, had
14 the written discovery, all of that stuff has been done. We
15 have had dispositive motions on two causes of action last
16 September and now he wants to come back and get a do-over
17 and put Ned Gregory back in when he has no standing. So
18 one, I think it's just simply untimely and prejudicial.
19 The second ground is that an amendment can be denied if it
20 is futile. You don't have to allow him to amend something
21 that's just eventually going to have to be taken out again
22 anyway if it gets brought before the court. That ground
23 has to do with the fact that Mr. Woods has no standing to
24 complain about anything Ned Gregory did or didn't do with
25 respect to this estate because he is not an interested

1 party and because of that his motion to amend to add Ned
2 Gregory to complain about the will should be denied.

3 MR. WOODS: Your Honor, can I respond to some of that?
4 The part he likes to leave out is -- and he writes books.
5 Here is a seven volume book that he gave to Judge Newman
6 back in September to convince him to sign an order for him,
7 and I filed a motion for reconsideration and just last week
8 Clifton Newman threw the whole thing out, he granted my
9 motion for reconsideration which is not something you
10 ordinarily get. It should be in that record, I can show it
11 to you if you want.

12 MR. BRACKETT: It's in the memorandum, Your Honor.

13 MR. WOODS: Yeah, but you will never find it, it's in
14 a 50 page memorandum. Can I show you this?

15 THE COURT: I have got it.

16 MR. WOODS: It's in the file. If it's in Brackett's
17 file it will be hard to find because his basic thing is to
18 bill the Hinsons. I want to get it over with. So what he
19 is talking about what Judge Gettys did is not valid because
20 Clifton Newman said it has got to be sent back to the
21 probate court because they couldn't send the record over
22 here correctly. And Brackett hemmed and hawed about it
23 that way and he got Clifton Newman to sign one of these 15
24 page orders and after he looked it over, it was cold black
25 and white he decided that was the wrong thing. He's doing

1 the same thing today's, he is just trying to confuse the
2 issues. What we actually need is an auditor or a special
3 master or whatever you want to call them, somebody who can
4 get the thing straightened out without having to go back
5 and forth. The way I have got standing I have got a
6 building that I am going to lose, it's worth \$130,000, to
7 me that's standing.

8 THE COURT: You have got what?

9 MR. WOODS: A stick built building that's going to get
10 gone if they use the wrong will, so to me that's standing.
11 He can say what he wants to.

12 MR. BRACKETT: Your Honor, the analysis is this: The
13 reason he has no real estate in the outcome of which will
14 gets probated is because regardless of which will his claim
15 gets handled exactly the same. The wills don't name him so
16 if he is successful in establishing his claim and he gets a
17 judgment against the estate it doesn't matter which will is
18 being probated, his claim gets handled the same. Estate
19 assets don't go up and down based on the outcome of his
20 claim. He maintains the same priority for payment of the
21 claim, in other words he gets paid, he would get paid as a
22 creditor before any distribution gets made to a devisee,
23 his relative position is exactly the same regardless. And
24 so for that reason he simply doesn't have a dog in the
25 fight with respect to which will gets probated.

1 THE COURT: Why is that not correct, Mr. Woods?

2 MR. WOODS: Because, Judge, I notified Judge Roddy,
3 the regular probate judge over there that she certified
4 back on June 27th, I told her I had an interest in this
5 estate and it's in that record there, that I wanted to be
6 notified whenever they were going to appoint an
7 administrator or whatever, but she ignored that. In the
8 meantime Ned Gregory went in there and lied to her about
9 which will to probate and more or less manipulated her
10 court. That's the reason she recused herself when she
11 finally figured out it was Ned Gregory running probate
12 court instead of herself she got off the case, which I
13 admire her for doing. But the whole root of this problem
14 is Ned Gregory. He has been in front of the state bar for
15 forging documents right there over there in Lancaster, I
16 have got the case cite there, it's not anything I made up.
17 He has done the same thing, he has told a lie under oath.

18 MR. BRACKETT: Your Honor, if there's any action to be
19 taken in this case it's for the personal representative and
20 the devisees to administer the estate, it's not Mr. Woods'
21 business.

22 THE COURT: I tell you what I'm going to do folks, I'm
23 going to think about this matter for a few minutes, maybe
24 more than a few minute before -- we still have another
25 hearing scheduled in a little while.

1 MR. BRACKETT: Yes, sir. My motion for summary
2 judgment is on the roster some place.

3 THE COURT: Is it in the same case?

4 MR. BRACKETT: Yes, sir, the same case.

5 THE COURT: I hate to make you wait but I have got a
6 lot of other people who are waiting, we need to do it in
7 the order in which they show up with the roster.

8 MR. WOODS: I don't have no problem, I am here to stay
9 all day.

10 (Break in proceedings.)

11 MR. WOODS: It's my understanding the last case is
12 Woods versus Breakfield, that would be the defendant's
13 motion for summary judgment. I now have a little bit of
14 feel for what this case is about than when we started. Go
15 ahead then.

16 MR. BRACKETT: Your Honor, using the same documents I
17 filed and distributed this morning that would be the
18 memorandum and the affidavit of the defendant. If you look
19 at exhibit three -- I'm sorry exhibit two of the
20 defendant's affidavit paragraph one of the amended claim
21 sets out a nuisance cause for action. Based on the
22 following allegations of fact, the estate operates and
23 Mrs. Hinson, she is deceased, while in life allowed certain
24 residents to exist on the property which has no septic tank
25 and then it goes onto talk about how sewage finds its way

1 into the Wares Fishing Creek and Mr. Woods states in his
2 complaint that that constitutes a nuisance. In support of
3 my motion for summary judgment, Your Honor, I have attached
4 two affidavits, one from a gentleman named Mr. Howard Steen
5 and one from a Mr. Larry Baskins. Mr. Baskins lives in the
6 residence -- I say the residence, that is referred to in
7 plaintiff's amended complaint is a residence occupied by
8 Mr. Larry Baskins, that is established by the defendant's
9 deposition transcript page 48 which is attached as the last
10 exhibit to the motion. Just to tie that up, the complaint
11 just simply says a certain residence. Plaintiff has
12 admitted in his deposition that the residence he complains
13 about is occupied by Larry Baskins. And so Mr. Steen is a
14 neighbor of Mr. Baskins. Mr. Steen also owns the septic
15 tank company in Lancaster, and in his affidavit he says
16 that his company has actually pumped Mr. Baskins' septic
17 tank. So the purpose of that affidavit is to establish
18 that there is indeed a septic tank on the lot contrary to
19 the allegations. It also alleges there's no other approved
20 system of disposal. I have supplied the court with an
21 affidavit from Mr. Mike Johnson who was the former
22 supervisor of Chester County DHEC. It was in his complaint
23 filed by Mr. Woods, by the plaintiff in this case, the same
24 complaint that there was raw sewage being discharged into
25 the lake from Mr. Baskins' residence. Mr. Johnson recounts

17
1 in his affidavit that he checked the ground around Mr.
2 Baskins' property which is alleged to be the discharge
3 point and finding none, no -- any illegal discharge on
4 the ground around Mr. Baskins' property. Mr. Johnson also
5 says in his affidavit that he knows what is out there in
6 the way of septic systems and has no objection to it. As
7 explained in the Johnson affidavit this particular
8 subdivision, if it indeed is a subdivision, had no
9 regulations at all on matters of that sort so it would not
10 have been -- it would not have been the subject of
11 regulations at the time, nevertheless, the point being
12 Mr. Woods has alleged that there was an approved method.
13 We ask that summary judgment on the remaining causes of
14 action be granted and that would be the nuisance cause of
15 action.

16 THE COURT: Say the last part again.

17 MR. BRACKETT: We're asking for summary judgment in
18 favor of the defendant on the eighth cause of action in the
19 claim right now and that would be the nuisance cause of
20 action.

21 THE COURT: And y'all mentioned Judge Newman's order.
22 I didn't see it in the file but Mr. Woods has made
23 reference to it several times.

24 MR. BRACKETT: We have it right here, it just came in
25 Monday, I think.

1 MR. WOODS: No, sir. That's not the order, Your
2 Honor.

3 MR. BRACKETT: That order -- there was an order dated
4 September 30th in case number 168.

5 MR. WOODS: It was just a mismatch of allegations.
6 It's not under that case number, Judge, it is in another
7 case. But the point is that it was appealed to circuit
8 court and it is going to have to be done over according to
9 with a Judge Newman wrote out? That's a different case,
10 Your Honor, there was an order entered in this case.

11 THE COURT: Stop there. Because there's an order
12 issued by Judge Newman in this case that affects certain
13 causes of action of the plaintiff.

14 MR. BRACKETT: Correct.

15 THE COURT: Is that correct?

16 MR. WOODS: Yes, sir.

17 THE COURT: Got an order from John Gettys, got an
18 order from --I have the order from Judge Newman here but
19 168 and another order and another appeal we talked about
20 which is case number 210.

21 MR. BRACKETT: Yes, sir, there was an order. Mr.
22 Woods filed a motion for reconsideration, that is under
23 advisement, there has not been an order issued on that one
24 in case number 168.

25 MR. WOODS: We've still got discovery we need to be

1 taking on the case. And on top of that the appeal to
2 circuit court needs to be done over, it just complicates
3 the litigation. I'm trying to get it over.

4 THE COURT: Do me a favor, Mr. Woods, the order where
5 you have been referring to --

6 MR. WOODS: Can I bring it up without the -- here is
7 what I'm showing. I'm going to show him this order too.
8 This is what it refers to. This is my copy.

9 THE COURT: I'll give it all back to you.

10 MR. BRACKETT: Your Honor, I've got a copy of the
11 order.

12 MR. WOODS: Yeah, but it has got to be done over.

13 MR. BRACKETT: No, sir, that's the other case,
14 Mr. Woods. Here is the order we're referring to in case
15 number 168.

16 THE COURT: But then there was an order -- a most
17 recent order that granted the motion.

18 MR. BRACKETT: That was in case number it was either
19 210 or 201. 201. He has not yet ruled -- to my knowledge
20 he has not yet ruled in the motion for reconsideration in
21 the case 168.

22 MR. WOODS: Could we put off the summary judgment
23 motion until another day, Judge?

24 THE COURT: No, sir. Let's go ahead and address the
25 motion for summary judgment. As I understand it the only

1 thing the summary judgment motion is referring to now is
2 the cause of action for nuisance.

3 MR. WOODS: That's it.

4 THE COURT: Go ahead.

5 MR. WOODS: All right. I filed a response to his
6 motion for summary judgment, it should be in the file.

7 THE COURT: I see it.

8 MR. WOODS: And I mean, he says that it's not been
9 responded to, I put counter affidavits in here. And I cite
10 Leaver versus Wilder Mobile Homes which is a nuisance case.

11 THE COURT: I'm looking at it.

12 MR. WOODS: And it's a real short case. Could I hand
13 that up so that you could -- it's like two or three pages,
14 it's not --

15 THE COURT: All right, sir. Go ahead.

16 MR. WOODS: I put in my affidavit that the man from
17 the health department didn't know how to work the dye
18 tablets and the ones he had were out of date. To me that
19 makes it an issue of fact for the jury right there. So far
20 as Steen, the one he's talking about, the one that owns the
21 septic tanks that in Lancaster, he's always continually out
22 there at the Hinson place repairing septic tanks, none of
23 them are approved by the state. I've got the state
24 regulations on the back of that response and these are
25 current, these come from the health department and DHEC I

1 call it, and what it amounts to present day regulation you
2 cannot get within 75 feet of a waterway with any sort of an
3 apparatus to sewage. Now, some of them out there may get
4 by because it has been out there for years like he said,
5 but what happened with Baskins is he started to rebuild his
6 house and not getting a building permit and telling the
7 county it was a new construction, meaning that he would
8 have to get 75 feet from the water. His lot is not even
9 75 feet long so there's no way he can do that in a
10 conventional system. He can pump his sewage elsewhere, up
11 the hill or down the street or something like that but
12 where his house is -- what I mean was when you can't have a
13 septic tank, that's what I meant, it was against the
14 regulations and they're right there on the back of that
15 where it says -- what I am really quoting is where it says
16 200.6 and then down there at number four and that six pages
17 it says within 75 linear feet of the critical line of the
18 ordinary high water of an impounded or natural body of
19 water including streams. He's violating the law everyday,
20 it doesn't matter what the local health man has to say
21 about it. And I responded to this and in Wilder vs. Leaver
22 (sic) says anything in South Carolina if work is hurt on
23 somebody it is a nuisance, it's a jury question and he
24 wants to come up here and get this part out of the way
25 claiming there's no jury questions in it which there is.

1 MR. BRACKETT: For the record I will object to much of
2 what Mr. Woods has just said, I don't want to interrupt
3 him. But his remark just like his affidavit is just
4 chopped full of hearsay and conclusionary statements,
5 nothing based on firsthand information and very little
6 based on admissible evidence and simply is not the type of
7 response that Rule 56 would require in this case.

8 MR. WOODS: Your Honor, it's based on my personal
9 knowledge.

10 THE COURT: Wait a minute, let him finish and I will
11 let you come back in just a minute, Mr. Woods.

12 MR. BRACKETT: His pleading is that he suffered
13 nuisance damage proximately caused by the absence of a
14 septic tank, that's the nature of the pleading that was
15 proximately caused by the fact that whatever system is
16 there is not approved by the government, and the affidavits
17 I have offered directly contradict that. It shows that
18 there is a septic tank and that it is approved by the
19 county and what he's offered as a response is insufficient.

20 THE COURT: Thank you, sir. Mr. Woods, did you want
21 to respond to that?

22 MR. WOODS: Your Honor, that's just his opinion that
23 it is insufficient, that's up to the Court to rule on. As
24 far as Steen, Steen has got an ulterior motive in saying he
25 has a septic tank. It never was a septic tank, it was just

1 something that was stuck in the ground and there's a rubber
2 pile that goes into the river itself and that's where they
3 dump the stuff at. The affidavit of Johnson that also
4 refers to the photographs which they have which I sent in
5 but he left that out of the affidavit, that really shows it
6 but he didn't put that in. He doesn't work for DHEC
7 anymore, he doesn't work the county or the state or
8 anybody. We have to put up with the -- the county has a
9 stop work order and he can't even complete his house
10 because he can't get a septic tank permit.

11 THE COURT: I tell you what I'm going to do folks, I'm
12 going to take this file with me and review it and I will be
13 in touch with both sides with my decision probably within
14 the week.

15 MR. BRACKETT: Thank you, Your Honor.

16 THE COURT: Thank you so much?

17 MR. WOODS: All right.

18 (End of the hearing.)

19

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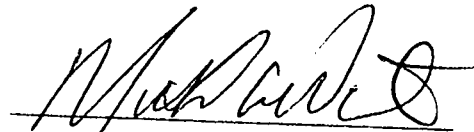
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1 I, the undersigned, Michael C. Watkins, Official
2 Court Reporter for the Sixth Judicial Circuit of the State
3 of South Carolina, do hereby certify that the foregoing is
4 a true, accurate and complete transcript of record of the
5 proceedings had and evidence introduced in the trial of
6 the captioned case, relative to appeal, in the Court of
7 Common Pleas for Chester County, South Carolina, on the
8 2nd day of February, 2011.

9 I do further certify that I am neither of kin,
10 counsel, nor interest to any party hereto.
11

12 February 20, 2012.

13
14 
15

16 Michael C. Watkins
17 Court Reporter
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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHESTER

2010-CP-12-0168
(Removed from Probate Court)

In the Matter of the Estate of Reba P. Hinson

Mell Woods,

Plaintiff/Claimant,

Defendant's Motion for Summary Judgment

v.

Robert H. Breakfield, Esquire, as
Personal Representative,

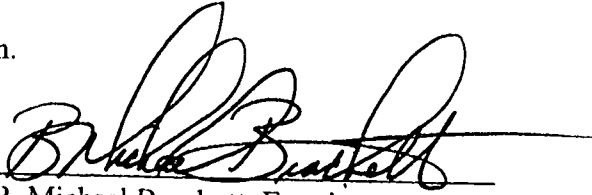
Defendant.

TO: The above-named Plaintiff;

Please take notice that the Defendant, through his undersigned attorney, moves the Court for an order granting summary judgment in favor of the Defendant on the Plaintiff's claim/cause of action alleging nuisance against the decedent Reba Hinson and against her probate estate. This motion is made pursuant to Rule 56, SCRPC, on the grounds that Plaintiff's claim is based on the allegation that the decedent knowingly allowed a tenant on her property, specifically Larry Baskins, to illegally discharge raw sewage from his residence into Fishing Creek Lake and that pretrial discovery and affidavits show that there is no genuine issue as to any material fact that would entitle the Plaintiff to recover judgement.

This motion will be supported by all matters of record herein, including Plaintiff's deposition and the attached affidavits of Mike Johnson, retired Chester County Environmental Health Supervisor, and Howard Steen, owner of Howard's Septic Service & Plumbing Repair, Inc. There

is no duty of prior consultation for this motion.



B. Michael Brackett, Esquire
1333 Main Street, Suite 650
Post Office Box 100261
Columbia, South Carolina 29202-3261
(803) 461-2312
Attorney for Defendant

Columbia, South Carolina
September 17, 2010

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

AFFIDAVIT OF MIKE JOHNSON

Personally appeared before me the undersigned who being first duly sworn deposes and says that:

1. My name is Mike Johnson. I am a resident of York County. I am making this affidavit at the request of attorney Mike Brackett.
2. In 2007 and 2008 I was the Chester County Environmental Health Supervisor. I continued in that position until my retirement in June 2009.
3. One area of responsibility for my office was to investigate complaints about waste water discharge.
4. In approximately October 2007, Mr. Mell Woods called the Chester County Health Department with a complaint about an alleged situation at 1614 Misty Harbor Lane adjacent to Fishing Creek Lake, an area of the Catawba River immediately upriver of the Duke Power dam north of Great Falls, in Chester County. He complained that a rubble pile containing construction fill had been created on the property and that untreated domestic sewage from the dwelling at 1614 Misty Harbor Lane was being piped under the rubble pile where it leached into the river. He stated that the property did not have a septic tank because the lot size was too small and there was no septic tank permit on record.
5. I told Mr. Woods that his complaint about the presence of the construction debris pile would have to be made to another section within DHEC, but that my office did have authority over the waste water complaint. I asked that he file a written complaint about the alleged illegal sewage disposal into the river. A copy of his complaint is attached to this affidavit as Exhibit A.
6. I undertook the investigation. I explained to Mr. Woods at the time that to the best of my knowledge, the area where 1614 Misty Harbor Lane was located had been developed mostly with fishing cabins, mobile homes and RV sites in the late 1960's and early 1970's before Chester County government had enacted construction standards and regulations, and that the absence of paperwork in government offices, such as septic tank permits, did not mean that septic tanks were not installed. The Chester County DHEC office has some records from the time when the area was developed, but the records that are in hand vary in the amount of useful information they contain.

7. On December 2, 2007 I personally visited the property at 1614 Misty Harbor Lane. I personally viewed the rubble pile. I placed approximately 12 tracer dye tablets into the existing sewer line through a pvc clean out just outside the dwelling. I poured water into the clean out to dissolve the tablets and to flush them down the pipe. Normally fewer than 12 dye tablets are used for this test, but I wanted to make sure that if the sewage was finding its way into the river that it would be easily noticeable. The dye tablets were red, and they are designed to stain whatever the dye comes in contact with. Not only would the dye be visible in the water, but it would adhere to and stain other materials it would come in contact with, such as rocks at the base of the rubble pile, rocks and dirt along the river bank and the pier supports next to the rubble pile
8. Immediately after inserting and flushing the dye tablets there was no evidence of dye on the surface of the property, or in or around the subject rubble pile, or in the water in the area of 1614 Misty Harbor Lane. I returned several times during the following weeks to make a visual check of the site for evidence of the dye. My last visit was on January 3, 2008. At no time did I see any evidence of the dye on the surface of the ground, in the water or on the river bank.
9. I was unable to find any evidence of system discharge either on the surface of the ground or into the river, meaning there was no evidence of an illegal sewage discharge at that location. I reported my findings to Mr. Woods, but he continued to express his disagreement with the results of my investigation.

Mike Johnson
Mike Johnson

Sworn to before me this 12th
day of July, 2010.

SUSAN E. HUG
Notary Public for South Carolina
My Commission Expires: 9/7/2017

Chester

CATAWBA HEALTH DISTRICT
COUNTY HEALTH DEPARTMENT

COMPLAINT REPORT

This form is a matter of public record. Should you desire to maintain confidentiality, please provide the information requested below in such a manner that your identity will not be revealed.

DESCRIBE SITUATION

Leaching of Sewage into
South Carolina Waters.

See Attached Letter.

STREET ADDRESS OR DIRECTIONS TO PROBLEM SITE

1614 Misty Harbor
Lane - see Attached Map.

NAME AND ADDRESS OF PERSON ON WHOSE PROPERTY PROBLEM EXISTS:

UNKNOWN

1614 Misty Harbor Lane

Lang Baskins

OR Road Chester County

NAME OF TENANT IF RENTAL PROPERTY:

FOR OFFICE USE ONLY

ACTION TAKEN placed dye tablets in system - no evidence of discharge in
lake or on surface of ground after a month.

COMPLAINT NO. 8211

OPTIONAL:

SIGNATURE OF PERSON FILING COMPLAINT

TELEPHONE NUMBER

ADDRESS

DATE

The place shown in the attached photos used to be a trailer. The people that occupy the place have re-built the trailer into a house.

The place has never had a modern septic tank and drain-line system. AT MOST it is an old style "cesspool" system. The relevant part is as the pictures show is that one-half of the yard is a dump for old commodes, bricks, tires, metal, carpets, and anything.

THE DUMP IS BEING USED AS THE LEACHFIELD.

The end of the leachfield rests in the waters of Fishing Creek lake. This is where the effluent goes -- directly into the lake. There is no 50 foot barrier before the lake is reached, it just leaches into the waters of Fishing Creek Lake.

If anyone does not think the place used to be a trailer just check the tax records. The county lists it as a trailer, and they *PAY* \$35.00 a year tax, or about 10 cents per day so they can dump into the lake.



STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

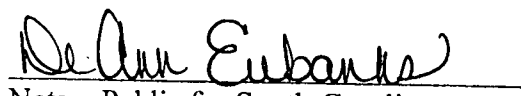
Affidavit of Howard Steen

Personally appeared before me the undersigned who being first duly sworn deposes and says that:

1. My name is Howard Steen, and I am a resident of Lancaster County.
2. I have a weekend home on Misty Harbor Lane on the bank of Fishing Creek Lake. My property is adjacent to the property of Larry Baskins.
3. I am the owner of Howard's Septic Service & Plumbing Repair, Inc. in Lancaster. I have been in the septic tank service business since 1985. From 1985 to 1997 my business was not incorporated, and in 1997 I incorporated the business under the name Howard's Septic Service & Plumbing Repair, Inc.
4. I know that Larry Baskins' property on Misty Harbor Lane has a septic system because approximately three years ago my company pumped Mr. Baskin's septic tank.
5. In the time that Mr. Baskins and I have been next door neighbors on Misty Harbor Lane, I have not seen any evidence that Mr. Baskins is discharging sewage into the river.


Howard Steen

Sworn to before me this 27
day of July, 2010.


Notary Public for South Carolina
My Commission Expires: March 30, 2019

STATE OF SOUTH CAROLINA

COUNTY OF FAIRFIELD

Mell Woods,

☐ Plaintiff,

v.

Robert H. Breakfield, as Personal
Representative of the Estate of
Reba P. Hinson,
☒ Defendant.

IN THE COURT OF COMMON PLEAS

Case No.: 2010-CP-12-0168

**MOTION AND ORDER INFORMATION
FORM AND COVER SHEET**

Attorney for Defendant:

B. Michael Brackett, SC Bar #838
Moses Koon & Brackett, PC
Post Office Box 100261
Columbia, SC 29202-3261
telephone: 803-461-2312 fax: 803-461-2309

Attorneys for Plaintiff:

Mell Woods
P. O. Box 2603
Lancaster, SC 29721
Plaintiff, pro se

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I AND III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion/Order: Motion for Summary Judgment

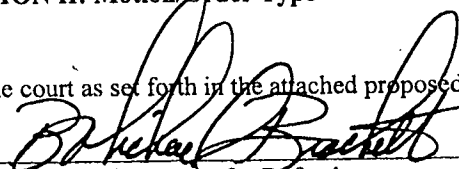
Estimated Time Needed: 20 min.

Court Reporter Needed: _____

SECTION II: Motion/Order Type

- ☒ Written Motion/Order attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Defendant

September 17, 2010
Date Submitted

SECTION III: Motion/Order Fee

- ☐ **PAID - AMOUNT:** _____
☐ **EXEMPT:** ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)
☐ Proposed Order submitted at request of the court; or reduced to writing from motion made in open court per judge's instruction - Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

- ☐ Motion/Order Fee to be paid upon filing of the attached order
☐ Other: _____

JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____

- ☐ **MOTION/ORDER FEE COLLECTED:** _____
☐ **CONTESTED - AMOUNT DUE:** _____

DATE FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-12-0168

IN THE MATTER OF: THE ESTATE
OF REBA P. HINSON, PETITION FOR
ALLOWANCE OF CLAIM

Mell Woods,

Plaintiff-Claimant,

v.

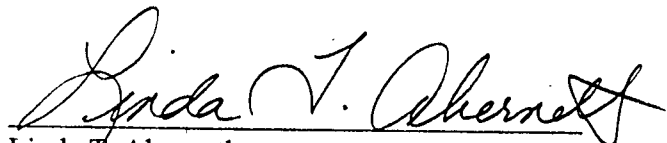
CERTIFICATE OF SERVICE

Robert H. Breakfield, as Personal
Representative of the Estate of
Reba P. Hinson,

Defendant

I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett, Esquire, attorney for the Defendant in the above-captioned matter, do hereby certify that I have served the Plaintiff, Mell Woods, with a copy of Defendant's Motion for Summary Judgment, postage prepaid and return address clearly indicated on said envelope, on this 17th day of September, 2010 at the following address:

Mell Woods
P. O. Box 2603
Lancaster, SC 29721
Plaintiff, pro se


Linda T. Abernethy

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

COPY

1333 Main Street, Suite 650 (29201)
Post Office Box 100261
Columbia, South Carolina 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309

B. Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

September 17, 2010

The Honorable Sue Carpenter
Chester County Clerk of Court
P. O. Drawer 580
Chester, SC 29706

RE: Woods v. Breakfield, as Personal Representative
of the Estate of Reba Hinson
2010-CP-12-0168
Our File Number - 12085.1

Dear Ms. Carpenter:

The above referenced matter is a claim proceeding removed to Circuit Court from the Chester County Probate Court. I represent the Defendant Personal Representative.

Enclosed for filing please find the Defendant's original Motion for Summary Judgment, together with the motion cover sheet and the required \$25.00 filing fee. Please file the original motion and return a clocked copy using the envelope provided.

By copy of this letter, a copy of the enclosed motion is being served upon the Plaintiff, Mell Woods, as reflected on the enclosed Certificate of Service.

Very truly yours,



B. Michael Brackett

BMB/lta

Enclosures

cc. Robert H. Breakfield, Esquire
Mell Woods

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

) IN THE COURT OF COMMON PLEAS
) SIXTH JUDICIAL CIRCUIT
)
)

) IN THE MATTER OF THE
) ESTATE OF REBA P. HINSON,
) Probate 2008-ES-12-00297
)
)
)

No. 2010-CP-12-00- 0168

MELL WOODS,

Plaintiff-Claimant,

vs.

ROBERT H. BREAKFIELD, as
Personal Representative
of the Estate of
REBA P. HINSON,

Defendant.

CLERK OF COURT
CHESTER CO S.C.
2011 FEB - 11 PM 4:28

RESPONSE TO DEFENDANT'S SUMMARY JUDGMENT MOTION

Plaintiff appears now to contest the summary judgment
motion filed by defendant;

1.

Plaintiff received notice of defendant's summary judgment
motion on January 04, 2011; defendant's motion is not
valid based upon the following reasons to wit:

Reason # 1:

Defendant bases his motion upon two affidavits, both of which are defective; first, the Howard Steen affidavit is defective because of bias, South Carolina Rules of Evidence, 608(c); STEEN has an ulterior motive in making his affidavit -- yes he does have a week-end place next to Baskins, but STEEN also has an illegal sewage disposal system, to service his week-end place next to Baskins, which he installed himself without state approval, and it is difficult to distinguish between STEEN'S system, and the illegal system in use by Baskins; in addition STEEN and his company are always ready to install illegal sewage disposal systems into the Hinson Subdivision, or repair the ones which already exist in a concerted effort to further pollute the Catawba River, and the drinking water for Columbia, South Carolina; just as recently October 21, 2010, and on November 10, 2010, and lastly on December 21, 2010, Steen, and his Company have been inside the Hinson Subdivision to repair an

lengthen existing lines without notifying the SC Health Department;

Reason # 2:

In addition to the above, witness Steen should be declared incompetent to testify under South Carolina Rules of Evidence 601(b)(2);

Reason # 4:

As to former SC Health Department employee Mike Johnson: Johnson no longer works for the State, is not authorized to speak for the State of South Carolina, having "retired" before the age of 40; Johnson never did understand how to use the so-called dye tablets he refers to in his affidavit, and at one time told plaintiff his supply of tablets were "out-of-date"; as to Johnson's statement that plaintiff told Johnson that Baskins "could not" have a septic tank and drainfield because the lot is too small is a half-truth at best concocted by Mike Brackett, the affidavit writer;

Reason # 4.

Plaintiff shows by partial parts of the SC Department of Health and Environmental Control rules that Baskins cannot have a legal septic tank and drainfield on his lot because the lot is simply too small, the new building and ancient drainfield too close to the river, (about eight feet), where the DHEC rules require seventy-five from a waterway: Rule 200.6(4); now it might be that Baskins could have been able to maintain a pre-existing condition as implied by Brackett through his device of the JOHNSON affidavit which he wrote for Johnson, ~~except that he has left out the most relevant fact which is that Baskins has re-built a 12 x 38 foot trailer into a stick-built house in order to evade permitting regulations; when Chester County found out about Baskins, they visited him and told him to stop working on his house; so there it is, an illegal house, because Baskins ignored permitting requirements; and for a franchise from the county to pollute the river, the Baskins pay a grand total of ten cents per day, as testified to by Mike Johnson;~~

Reason # 5.

Plaintiff adopts by reference the portion of the DHEC regulations, (six pages), attached hereto as Plaintiff's Exhibit One; and states that the regulations are current;

Reason # 6.

This pleading is meant to be a counter-affidavit in opposition to the two affidavits filed by defendants;

AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD

Mell Woods, being first duly sworn, hereby deposes and states the following facts upon his own personal knowledge:

Larry Baskins, and the Hinson Estate dump illegal, untreated sewage into the Catawba River on a daily basis; affiant has to smell and endure these Health violations on a daily basis; this is the same fact situation which existed in Lever v. Wilder Mobile Homes, Inc., 283 S.C. 452 and is the same as when this lawsuit was filed, has not changed any, and constitutes a continuing nuisance; affiant has reviewed the within and foregoing pleading, and states on his oath that each allegation in the pleading is the truth.

Further, affiant saith not.

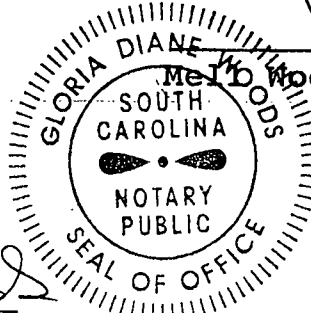
(signature follows on next page)

Sworn to, and subscribed before me,

This 29 day of January, 2011.

Gloria Diane Woods

Gloria Diane Woods, Notary Public for South Carolina, Comm. expires Jan 08, 2018.



Mell Woods, affiant.

WHEREFORE, plaintiff asks that defendants summary judgment motion be denied, and that the matter be submitted to a jury for trial.

Mell Woods

P.O. Box 2603
Lancaster, SC 29721

CERTIFICATE OF SERVICE:

I hereby certify that I have served the defendants with a copy of the within and foregoing PLEADING, AND COUNTER-AFFIDAVIT by placing a copy of each in the U.S. Mail properly addressed and postage paid to the counsel of record for defendants.

This 29 day of January, 2011.

Mell Woods

S.C. Regulation 61-56
Onsite Wastewater Systems.

(Statutory Authority: 1976 Code Section 44-1-140)

CONTENTS:

- 100 Purposes and Scope
- 101 Definitions
- 102 General
- 103 Application, Permit, Approval
- 200 Minimum Site Conditions
- 201 Minimum Requirements for Primary Treatment
- 202 Minimum Requirements for Final Treatment and Disposal Systems
- 203 Construction Criteria
- 204 Evaluation of Alternative Infiltration Trench Products
- 300 Wastewater Treatment Facility Accessibility
- 301 Discharge of Waste
- 302 Enforcement Provisions
- 303 Repeal and Date of Effect
- 304 Changes in Use that Impact Existing Onsite Wastewater Systems
- 305 Severability Clause
- 400 Appendices of Standards for Onsite Wastewater Systems
- 401 Appendix A - System Standard 150 - Large (greater than 1500 gpd) and Community Systems
- 402 Appendix B - System Standard 210/211 - Shallow Placement With 9-Inch Aggregate Depth
- 403 Appendix C - System Standard 220/221 - Shallow Placement With 6-Inch Aggregate Depth
- 404 Appendix D - System Standard 230/231 - Shallow Placement With 14-Inch Aggregate Depth With Fill Cap

Plaintiff's
Exhibit one

FILED

2011 FEB - 1 10:24:28

CLERK OF COURT
SOUTH CAROLINA

405 Appendix E - System Standard 240/241 - Ultra-Shallow Placement With 6-Inch Aggregate Depth With Fill Cap

406 Appendix F - System Standard 250/251 - Reservoir Infiltration System For Soils With Expansive Clay

407 Appendix G - System Standard 260/261 - 9-Inch Shallow Placement System With Fill Cap System

408 Appendix H - System Standard 270/271 - Alternative Trench Width and Depth Systems

409 Appendix I - System Standard 280/281 - Reservoir Infiltration System for Soils With Expansive Clay Shallow Rock Formations

410 Appendix J - System Standard 370/371 - Shallow Placement With Fill Cap for Sites With Shallow Class IV Soil

411 Appendix K - System Standard 380/381 - Double Aggregate Depth Wastewater Infiltration Trenches

412 Appendix L - System Standard 420/421 - Mounded Infiltration System

413 Appendix M - System Standard 431 - Mounded Fill System

414 Appendix N - System Standard 601 - Elevated Infiltration System

415 Appendix O - System Standard 610 - Specialized Onsite Wastewater System Designs (Less Than 1500 GPD)

416 Appendix P - Curtain Drain Standard

500 Appendix Q - Long-Term Acceptance Rate Standard For Onsite Wastewater Systems

501 Appendix R - Peak Sewage Flow Rate Standard

600 Appendix S - Onsite Wastewater Pump System Standard

700 Appendix T - Minimum Design Standards For Tank Construction

800 Appendix U - Fiberglass Reinforced Plastic Tanks Standard

REFERENCES :

A. The following statutes are referenced in this regulation:

1. S.C. Code of Laws, 44-1-20 , et seq., South Carolina Department of Health and Environmental Control (1976 Code as amended)
2. S.C. Code of Laws, 1-23-10 et seq., South Carolina Administrative Procedures Act

(1976 Code as amended)

3. S.C. Code of Laws, 48-1-10 et seq., South Carolina Pollution Control Act (1976 Code as amended)

4. S.C. Code of Laws, 48-39-10 et seq., South Carolina Coastal Tidelands and Wetlands (1976 Code as amended)

5. Section 208, Federal Clean Water Act, 33 U.S.C. Section 1288

B. The following Departmental standards and/or publications are referenced in this regulation:

1. Regulation 61-25, Retail Food Establishments

2. Regulation 30-1, Coastal Division Regulations

3. Regulation 61-9, Water Pollution Control Permits

4. Regulation 61-58, State Primary Drinking Water Regulations

5. Regulation 61-67, Standards for Wastewater Facility Construction

6. Regulation 61-68, Water Classification and Standards

7. Regulation 61-69, Classified Waters

C. The following manufacturing and procedural standards are referenced in this regulation:

1. American Society of Agronomy (ASA)

2. American Society for Testing and Materials (ASTM) C

3. American Society for Testing and Materials (ASTM) D

4. Crop Science Society of America (CSSA)

5. National Building Specification (NBS) Voluntary Product Standard PS 15-69

7. National Electrical Manufacturers Association (NEMA)

8. Soil Science Society of America (SSSA)

100 PURPOSES and SCOPE

A major factor influencing the health of individuals where public wastewater treatment facilities are not available is the proper onsite treatment and disposal of domestic wastewater. Diseases such as dysentery, cholera, infectious hepatitis, typhoid and paratyphoid are transmitted through the fecal contamination of food, water, and the land surface largely due to the improper treatment and disposal of domestic

Department.

200 MINIMUM SITE CONDITIONS

200.1 Soil texture, depth of soil to restrictive horizons and depth to the zone of saturation shall meet minimum standards approved by the Department. These characteristics shall be determined using accepted methodologies in the field of soil science.

200.2 Soils exhibiting massive or platy structure, and soils which have been identified as having substantial amounts of expansible layer clay minerals or smectites, are unsuitable for onsite wastewater systems.

200.3 Where the estimated peak sewage flow will not exceed fifteen hundred (1500) gpd, the minimum vertical separation between the deepest point of effluent application and the zone of saturation shall be at least six (6) inches.

200.4 Where the estimated peak sewage flow will exceed fifteen hundred (1500) gpd, the depth to the zone of saturation shall be at least thirty six (36) inches below the naturally occurring soil surface, and at least six (6) inches below the deepest point of effluent application.

200.5 Depth to rock and other restrictive horizons shall be greater than twelve (12) inches below the deepest point of effluent application.

200.6 The area of the lot or plot of ground where the onsite wastewater system is to be installed shall be of sufficient size so that no part of the system will be:

- (1) Within five (5) linear feet of a building, or under a driveway or parking area;
- (2) Within seventy-five (75) linear feet of a private well (less than 1500 gpd sewage flow), one hundred (100) linear feet of a receptor (greater than 1500 gpd sewage flow), and within the Department's established minimum distance from a public well;
- (3) Within one hundred (100) linear feet of a public well;
- (4) Within seventy-five (75) linear feet of the critical area line (tidal waters) as determined by the Department; or within seventy-five (75) linear feet of the ordinary high water (within the banks) elevation (non-tidal waters) of an impounded or natural body of water, including streams and canals;
- (5) Within ten (10) feet of upslope and twenty-five (25) feet of down slope curtain drains;
- (6) Within twenty-five (25) feet of a drainage ditch or stormwater treatment system;
- (7) Within fifteen (15) feet of the top of the slope of embankments or cuts of two (2) feet or more vertical height when any part of the wastewater infiltration trench is to be

wastewater. For this reason, every effort should be made to prevent such hazards and to treat and dispose of all human waste through the practical application of the best and most cost effective technology available.

Safe treatment and disposal of domestic wastewater is necessary to protect the health of families and communities, and to prevent the occurrence of public health nuisances. Domestic wastewater can be rendered ecologically safe and public health can be protected if such wastes are disposed of so that:

- A. They will not contaminate any drinking water supply.
- B. They will not give rise to a public health hazard by being accessible to insects, rodents, or other possible carriers, which may come into contact with food or drinking water.
- C. They will not give rise to a public health hazard by being accessible to children or adults.
- D. They will not violate federal and state laws or regulations governing water pollution or sewage disposal.
- E. They will not pollute or contaminate any waters of the state.
- F. They will not give rise to a public health nuisance.

Where the installation of an onsite wastewater system is necessary, the basic principles of design, construction, installation, operation and maintenance shall be followed.

101 DEFINITIONS

ACCESSIBLE - For the purpose of this regulation, a wastewater treatment facility connection is accessible when it adjoins the property in question, and the sewer authority has granted permission to connect to the system. Where annexation or easements to cross adjacent property are required to connect to a wastewater treatment facility, the wastewater treatment facility shall not be considered accessible.

ALTERNATIVE SYSTEM - A system incorporating design modifications of the proposed subsurface wastewater infiltration trench area or geometry for the purpose of achieving compliance with required setbacks and offset to the zone of saturation and/or restrictive horizons. No such system shall be utilized unless the Department has established a specific standard.

ALTERNATIVE INFILTRATION TRENCH PRODUCTS - Products specifically designed to replace or eliminate the aggregate typically utilized in subsurface infiltration trenches. Such products must be approved for use by the Department and must adhere to required equivalency values established herein.

placed higher in elevation than the invert of the cut or embankment;

(8) Within five (5) feet of a property line.

(9) Greater protective offsets shall be required when utilizing certain alternative system standards contained within this Regulation.

200.7 In addition to the minimum space required in Section 200.6, minimum repair area shall be set aside as follows:

(1) Any new site meeting the minimum design criteria for an onsite wastewater system shall have a usable repair or replacement area equivalent to at least fifty (50) percent of the size of the original system. Where community onsite wastewater systems are utilized, there must be at least one hundred (100) percent repair or replacement area. This area cannot be covered with structures or impervious materials.

(2) Usable repair or replacement area shall be demonstrated to include suitable soil conditions, and shall be free of buildings or other improvements, setbacks, easements, and other encroachments that would prevent system construction. The undisturbed area between the wastewater infiltration trenches shall not be credited towards this requirement.

200.8 Multiple, individually owned remote subsurface wastewater infiltration areas may be considered for mass installation in a defined area where the wastewater infiltration trenches will be adjacently located to each other, provided that the combined peak wastewater loading is less than fifteen hundred (1500) gpd. In such cases, each subsurface wastewater infiltration area plot shall be sized such that there is sufficient area for one hundred (100) percent subsurface wastewater infiltration area replacement. Each plot shall be deeded, with all appropriate easements, as a lot in conjunction with the specific unit that it serves, and required protective offsets, as described in Section 200.6, shall apply to each individual remote subsurface wastewater infiltration area. A plan shall be prepared by a Registered Professional Engineer licensed in the State of South Carolina that illustrates the overall plan; specifies the route and identification of effluent sewers and/or forcemains; specifies the entity responsible for perpetual maintenance of the sewer lines and mass subsurface wastewater infiltration area; specifies the configuration and identification of the individual subsurface wastewater infiltration area parcels; and specifies the manner in which ingress and egress will be provided to the individual subsurface wastewater infiltration area parcels. When the combined peak wastewater loading of the adjacently loading subsurface wastewater infiltration area will exceed fifteen hundred (1500) gpd, the project shall be considered as a public (community) collection and treatment system, then the onsite wastewater system must comply with the requirements in Section 102.5.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER
IN THE MATTER OF THE ESTATE
OF REBA P. HINSON, Probate
No: 2008-ES-12-00297

MELL WOODS,

PLAINTIFF-CLAIMANT,

V.

ROBERT H. BREAKFIELD,
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF REBA P. HINSON,
DEFENDANT.

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CIVIL CASE NO. 2010-CP-12-00 201

FILED

2010 NOV -9 / P 4:37

CLERK OF COURT
CHESTER CO S.C.

COPY

MOTION TO RECONSIDER, AND TO ALTER OR AMEND JUDGMENT

NOW COMES Mell Woods, party in the above-styled case, and moves that the Honorable Circuit Court for the SIXTH Judicial Circuit reconsider the Order entered in this case by Clifton Newman, presiding on September 08, 2010, for the following reasons to wit:

1.

The Court failed to rule on certain motions that were in the file and should have been ruled on by the Court;

2.

This motion is timely; although Judge Newman heard the case on September 08, 2010, no one got around to filing a court order with the clerk of court until about a month later, and then about another month later, or on October 31, to be exact, the moving party in this case received a copy of the court order from the defense attorney, Mr. Brackett, via the U.S. Mail; this Motion to Reconsider, and to Alter or Amend Judgment is being filed with the clerk, and served on defense counsel within ten days of the receipt of the court order on October 31, 2010;

3.

The appeal from Probate Court to Circuit Court was heard without benefit of a certified record from the Probate Court as the law requires; plaintiff objected to any such thing being done, in writing,

before the case was called; however over objection, both written and oral, the Circuit Court proceeded to hear the case without a certified record; the Court seemed to be more swayed by the huffing and puffing of the defense counsel, Mr. Brackett, rather than the law; Mr. Brackett stated to the Court that he had handled many appeals to circuit court from probate, and that he had "always" got up the record, and more, or less, supervised the probate court in in the performance of the statutory duties assigned to that court; such is not the law however, and the law about a probate record is not "new", in fact since copy machines are now accepted, moving party supplies the actual law from the 1952 S.C. Code, and the following is the same law as today, except for one small stipulation: *"Such return may be compelled by attachment"*; [which has been removed from the present law], here is the text of the

§ 7-203

APPEALS

§ 7-204

Ex parte Gregory, 58 S. C. 114, 36 S. E. 433.

The action of a probate court, although erroneous, is valid until reversed.—Anderson v. Bowers, 170 F. (2d) 676.

Quoted in Watson v. Pollitzer, 72 S. C. 387, 51 S. E. 914; Johnson v. Johnson, 160 S. C. 158, 158 S. E. 264.

Cited in In re Mayo's Estate, 60 S. C. 401, 38 S. E. 634; Ex parte Apeler, 35 S. C. 417, 14 S. E. 931; Henson v. Wolfe, 130 S. C. 273, 125 S. E. 293; Reed v. Lemacks, 207 S. C. 137, 35 S. E. (2d) 34; Thompson v. Anderson, 208 S. C. 208, 37 S. E. (2d) 581; Howell v. Littlefield, 211 S. C. 462, 46 S. E. (2d) 47.

§ 7-203. Probate court to make return to appellate court.

Within thirty days after such grounds of appeal shall have been filed in the office of the probate court, as provided in § 7-202, the probate court shall make a return to the appellate court of the testimony, proceedings and judgment and file the same in the appellate court. Such return may be compelled by attachment. Upon the appeal being finally disposed of all such papers included in the return shall be returned to the probate court.

1942 Code § 231; 1932 Code § 231; Civ. P. '22 § 188; Civ. P. '12 § 64; Civ. P. '02 § 58; 1870 (14) 60; 1939 (41) 111.

Duty imposed on probate court.—An important effect of the amendment of 1939 was to relieve the appellant of the burden and expense of procuring a certified copy of the record and filing it in the appellate court. Instead it was made the duty of the probate court to file the originals comprising the record, which shall constitute the return to the appellate court. The filing shall be within thirty days after filing in the probate court of notice and grounds of appeal and may be compelled by attachment. There is no provision for penalty upon appellant for failure of the probate judge to perform his duty under the statute. Howell v. Littlefield, 211 S. C. 462, 46 S. E. (2d) 47.

Presumption that probate court would perform duty.—The appellants from the judgment of the probate court, having complied with § 7-202 respecting the taking of

their appeal to the court of common pleas, are entitled to rely upon the presumption that the judge of probate would perform his duty in the time required by the provisions of this section. The presumption continues until knowledge of the neglect is acquired. Howell v. Littlefield, 211 S. C. 462, 46 S. E. (2d) 47.

If appeal is withdrawn prior to filing return probate jurisdiction is not lost.—The jurisdiction of the probate court continues until the record shows that it is lost. Where the notice of appeal is revoked prior to the filing of the return as herein provided for, the probate court still has jurisdiction to revoke its grant of letters of administration. In re Jones' Estate, 102 S. C. 110, 86 S. E. 203.

Quoted in Watson v. Pollitzer, 72 S. C. 387, 51 S. E. 914; Johnson v. Johnson, 160 S. C. 158, 158 S. E. 264.

§ 7-204. Proceedings stayed by appeal.

When an appeal according to law is taken from any sentence or decree of the probate court all proceedings in pursuance of the order, sentence or decree appealed from shall cease until the judgment of the circuit or Supreme Court is had; but if the appellant in writing waives his appeal before the entry of such judgment, proceedings may be had in the probate court as if no appeal had been taken.

1942 Code § 232; 1932 Code § 232; Civ. P. '22 § 189; Civ. P. '12 § 65; Civ. P. '02 § 59; 1870 (16) 61.

Pending an appeal from its decree of "no will" probate court cannot appoint an administrator.—An appeal from an order or decree of the probate court shall act as a supersedeas, therefore during the pendency of an appeal from the probate court of a

decree of no will, the probate court cannot grant letters of administration, as that would involve a determination of the question on appeal. In re Seay's Estate, 63 S. C. 130, 41 S. E. 17. See also, Wolfe v. Bank of Anderson, 128 S. C. 174, 122 S. E. 592.

CODE OF LAWS
OF
SOUTH CAROLINA
1952

IN EIGHT VOLUMES

ANNOTATED

Prepared under the supervision and direction of the
Code Commissioner and the Committee on Statutory
Laws of the General Assembly of South Carolina

VOLUME 1

THE MICHIE COMPANY
Charlottesville, Va.

THE LAWYERS CO-OPERATIVE PUBLISHING CO.
Rochester, N. Y.

1952

4.

So now that it can be readily seen that appellant has no duty whatsoever in compiling, transmitting, or CERTIFYING the record on appeal to the Circuit Court, as an appeals court, and where the court order drawn up by Michael Brackett for the judge to sign specifically refers to the record, where in fact there is no record, it follows that the entire proceeding is controlled by an error of law manufactured by the defense counsel;

5.

There is much more to the "history" of the proceeding recited by the defense counsel in the court order; the case is all about attorney fraud; namely Ned Gregory, II., In The Matter of Ned Gregory, II., Respondent, 360 S.C. 270; Gregory is a document forger, and participated in the forging of documents

in THIS case, and under oath; specifically, Gregory drew a document used to suborn perjury, with the end result of the wrong will being probated in this case; such conduct fits the definition of EX-trinsic fraud practiced upon South Carolina Courts, and is no different from that of the defense counsel in the Ford case, Chewning v. Ford Motor Co., 354 S.C. 72; more to the point is: why did the original Judge recuse herself, and the reason is directly related to Gregory's forging and manipulation of her court;

6.

In addition, appellant moves that the circuit court reconsider the order entered in this case, for reason of there not being a certified record of the proceedings below available for the court's use, and the fact that the record itself has at times been concealed, left out, and not

brought out until the last minute where the record is of no use to the adverse party; example, in this very case, on the morning of the hearing in this case in circuit court, moving party found the "record" of this case still residing at the Chester County Probate Court, where it should not have been, but should have, according to law, been on file at the circuit court, IN ADDITION, there was no court reporter transcript present in the file, but LO & BEHOLD, the same afternoon one of the probate clerks appeared in the Circuit Court courtroom with the un-certified record clutched in her hand, THERE IT WAS, the missing transcript, right on top;

7.

As proof of appellant's allegations about the record appellant shows that the Chester County Circuit Court is not now, and never has been, in

possession of a full certified record of the proceedings in the probate court below; the record was taken back to the probate court and is retained there, in violation of S.C. Law, instead of being transmitted to the circuit court, and kept by the circuit court, as required by statute;

8.

There are several reasons for this unfortunate state of facts; the first is simple incompetence; the second is the manipulation of courts by forgers and members of the bar who assume teaching roles with the net result being that the present Chester County Probate Clerks will never transmit and certify the entire record of the proceedings below because the clerks have been advised that the record contains full evidence of criminal activity, and the probate staff will never perform this duty without Circuit Court intervention;

9.

WHEREFORE, plaintiff moves that the the Chester County Probate Clerks be directed to produce the full and original record of the probate proceedings below, and transmit it to the Chester County Circuit Court, and leave it at the circuit court until this proceeding is over; that a new hearing be held after the record is transmitted to the circuit court, or in the alternative, A RECEIVER be appointed to see to it that the law is complied with.

Respectfully submitted,

This 09 day of November, 2010.

COPY

Mell Woods

P.O. Box 2603
Lancaster, SC 29721

FILED
2010 NOV - 9 1 P 4:37
CLERK OF COURT
CHESTER CO S.C.

660

STATE OF SOUTH CAROLINA

COUNTY OF Chester

Mell Woods

vs.

Robert H. Breakfield

Plaintiff,

Defendant.

IN THE COURT OF COMMON PLEAS
Sixth JUDICIAL CIRCUIT

CASE NO.: 2010-CP-12-00-201

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

COPY

Plaintiff: <u>Mell Woods</u> , Bar No. <u> </u> Address: <u>P.O. Box 2603 Lancaster, SC 29721</u> Phone: <u> </u> Fax <u> </u> E-mail: <u> </u> Other: <u> </u>		Defendant's Attorney: <u>B. Michael Brackett</u> , Bar No. <u>unknown</u> Address: <u>Box 100261 Columbia, SC 29202</u> Phone: <u>803-461-2312</u> Fax <u> </u> E-mail: <u> </u> Other: <u> </u>	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information Nature of Motion: <u>Reconsideration</u> Estimated Time Needed: <u>30"</u> Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature <u> </u>		Date submitted <u>2010</u>	
☒ PAID - AMOUNT: \$ <u>25.00</u>		SECTION III: Motion Fee	
☐ EXEMPT: (check reason)		☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, Name of Court Reporter: <u> </u> ☐ Other: <u> </u>	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: <u> </u>		JUDGE CODE <u> </u> Date: <u> </u> , 20 <u> </u>	
CLERK'S VERIFICATION Collected by: <u> </u> Date Filed: <u> </u> , 20 <u> </u> ☐ MOTION FEE COLLECTED: \$ <u> </u> ☐ CONTESTED - AMOUNT DUE: \$ <u> </u>			

COUNTY OF CHESTER

IN THE MATTER OF ESTATE OF REBA P. HINSON

CASE NUMBER 2008es1200297

NOTICE OF DISALLOWANCE OF CLAIM

TO:

Name: Mell Woods

Address: P. O. Box 2603

Address: Lancaster, SC 29721

The undersigned, as the Personal Representative appointed to administer this estate, disallows (check one) ☒ ALL ☐ _____ of your claim for \$120,000.00 presented on November 10, 2009. Failure to protest this disallowance of your claim, i.e., failing to file your petition for its allowance (form #373PC) in the Probate Court and failing to commence a proceeding on the claim within thirty days after the mailing of this Notice of Disallowance of Claim, shall result in your claim or the disallowed portion of your claim being forever barred.

Executed this 10 day of Nov, 2009Signature: Robert H. Breakfield

Name: Robert H. Breakfield

Address: P. O. Box 36061

Rock Hill, SC 29732

Telephone(O): 803-329-4920

(H): _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008ES1200297

COPY

On the 09 day of Dec

20 09

I mailed or delivered the following document,
Petition for Allowance of Claim

☐
☒

A copy of which is attached hereto and incorporated herein, or
The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail

☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME

Robert Harold Breakfield

ADDRESS

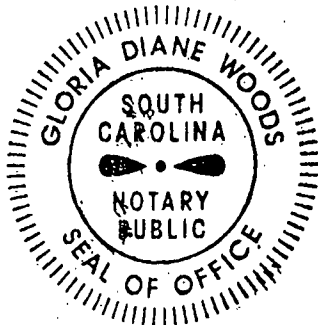
P.O. Box 36061
Rock Hill, SC 29732

SWORN to before me this 09 day of
December, 20 09

Gloria Diane Woods

Notary Public for South Carolina

My Commission Expires: Jan. 08, 2018



Signature: [Signature]

Name: McCl Woods

Address: P.O. Box 2603
Lancaster, SC 29721

Telephone (O): _____

(H): _____

E-mail: _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

STATE OF SOUTH CAROLINA

COUNTY OF: Chester

IN THE MATTER OF: Reba P. Hinson

IN THE PROBATE COURT

PETITION FOR ALLOWANCE OF CLAIM

CASE NUMBER: 2008ES1200297

Petitioner: Meil Woods

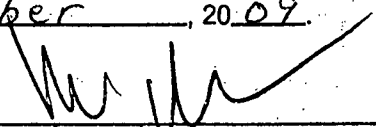
The undersigned petitions the Court to allow the following claims against the estate in the amounts set forth below:

Creditor Name and Address	Amount of Claim
<u>Meil Woods P.O. Box 2603 Lancaster, SC 29721</u>	<u>Base amount: \$120,000.00</u>
<u>Meil Woods P.O. Box 2603 Lancaster SC 29721</u>	<u>damages to be set by Jury</u>

In support of this petition, petitioner states that each claim is valid, was presented within the period for presentation of claims as provided by law, and has not been paid, and, as to those claims which were presented to Personal Representative and not filed with the Court, that a copy of the statement of each such claim is attached to this petition and made a part hereof.

(Other:)
This part of the case is hereby removed to the Circuit Court for
Chester County. See 62-1-302 (6) (d) (5), and also 380 S.C. 466;
Amount in controversy over \$5,000.00. See attached motion.

Executed this 09 day of December, 2009.

Signature: 

Name: Meil Woods

Address: P.O. Box 2603
Lancaster, SC 29721

Telephone(O): _____

(H): _____

Attorney: _____

Address: _____

Telephone: _____

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____

TIME: _____

PLACE: _____

Pursuant to SCPC Section 1-401, the petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing date.

Executed this _____ day of _____, 20_____

_____, Probate Court Judge

ORDER FOR ALLOWANCE OF CLAIM

On the basis of the within petition and upon hearing for allowance of claims, IT IS HEREBY ORDERED that the following claims against the estate be ☐ ALLOWED ☐ DISALLOWED in the amounts set forth below:

Executed this _____ day of _____, 20_____

_____, Probate Court Judge

STATE OF SOUTH CAROLINA, LOIS H. RODDEY, IN THE PROBATE COURT
JUDGE OF PROBATE

COUNTY OF CHESTER

2010 JAN -4 P 3: 02

C/A NO: 2008-ES-12-00297

IN THE MATTER OF: THE ESTATE OF REBA P. HINSON
PROBATE COURT
CHESTER COUNTY S.C.

**Personal Representative's Return to Motion for Removal to Circuit Court;
And Personal Representative's Motion to Dismiss**

Return to Motion for Removal

Claimant Mell Woods filed a claim against the estate on November 9, 2009. The Personal Representative disallowed the claim by notice dated and served November 10, 2009. On December 9, 2009 Mr. Woods filed and served a Petition for Allowance of Claim, a Demand for Jury Trial and a Motion to Remove his action for allowance of claim to Circuit Court.

The Motion to Remove is governed by S.C. Code Ann. §62-1-302(d). Before removal is allowed, the Probate Court must find that the conditions for removal have been satisfied.

Claimant's November 9, 2009 statement of claim is a jumbled, mish-mash of allegations. His Form 371PC describes the basis of claim as "see attached." The attachment is a typed "statement of claim" setting forth 12 numbered paragraphs. The introductory paragraph describes the basis of claim as "quantum meruit; constructive fraud causing a constructive trust to arise; nuisance." Paragraph 12 of the attachment appears to allege an equitable claim for improvements.

To determine whether an action is in law or in equity, the court must discern the main purpose of the suit. Baughman v. AT&T, 298 S.C. 127, 378 S.E.2d 599 (1989).¹ The main purpose should generally be ascertained from the body of the complaint. Insurance Fin. Servs., Inc. v. South Carolina Ins. Co., 271 S.C. 289, 247 S.E.2d 315 (1978). The nature of the issues raised by the pleadings and the character of the relief sought determine the character of the action as legal or equitable. Bell v. Mackey, 191 S.C. 105, 3 S.E.2d 816 (1939).

Quantum Meruit. Although quantum meruit is mentioned in the Statement of Claim as a basis for the claim, the detailed allegations in the attachment to the claim do not allege any facts relevant to a quantum meruit claim. The claim is simply devoid of allegations on which a quantum meruit claim can rest. Nevertheless, quantum meruit is an equitable remedy, OHG of Lake City, Inc. v. McCutcheon, 600 S.E.2d 105 (S.C. App. 2004), for which a jury trial is not allowed, Loyola Federal Savings Bank v. Thomasson Properties, 456 S.E.2d 453 (S.C. App. 1995) (no right to a jury

¹ See Jean Hoefer Toal, Shanin Vafai and Robert A. Muckenfuss, Appellate Practice in South Carolina 178 (2d ed. 2002).

trial in equitable actions). Consequently, the cause of action alleging quantum meruit is not removable.

Equitable claim for Improvements. The claim for improvements is not a claim under the Betterment Statute, S.C. Code Ann. §27-27-10, et seq. (1991) or under the ejectment statute, §27-27-70 (1991), because under either statute, the claim may only be made defensively in response to an action against the improver for possession of the land. C&S Nat'l Bank v. Modern Homes Const. Co., 149 S.E.2d 326 (S.C. 1966). Mr. Woods has not alleged a statutory claim because his is not a defensive claim in response to an action by the owner; rather, it is a direct claim under the equity jurisdiction of the court.

In C&S Nat'l Bank v. Modern Homes Const. Co., the South Carolina Supreme Court held that the Betterment Statute does not provide the only remedy by which the rights of an improver of the land of another may be protected. Equity may grant a remedy when the particular facts and equities of the case demonstrate that both parties can be made whole. Without explaining the factors or analysis to be employed in judging the equities, the court cited cases from other jurisdictions and two ALR annotations. Consequently, any claim by Mr. Woods for improvements is an equitable claim for which there is no right to a jury trial, and which is not removable to Circuit Court.

Constructive Fraud. To establish constructive fraud, all elements of actual fraud except the element of intent must be established." Pitts v. Jackson Nat'l Life Ins. Co., 352 S.C. 319, 333, 574 S.E.2d 502, 509 (Ct.App. 2002) (quoting Ardis v. Cox, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (Ct.App. 1993)). "Neither actual dishonesty of purpose nor intent to deceive is an essential element of constructive fraud while intent to deceive is an essential element of actual fraud." Ardis, 314 S.C. at 516. Actual fraud is distinguished from constructive fraud by the presence or absence of the intent to deceive. Pitts, 352 S.C. at 334, 574 S.E.2d at 509. "However, in a constructive fraud case, where there is no confidential or fiduciary relationship, and an arm's length transaction between mature, educated people is involved, there is no right to rely." Ardis, 314 S.C. at 516, 431 S.E.2d at 270.

A Plaintiff must allege more than a "bare claim of conspiracy" using "labels and conclusions." Loubser v. Thacker, 440 F.3d 449 (7th Cir. 2006) (a conspiracy claim differs from other claims in having a degree of vagueness that makes a bare claim of conspiracy wholly uninformative to the defendant); Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955 (2007), (although a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions. . .); Beanal v. Freeport-McMoran, Inc., 197 F.3d 161 (5th Cir. 1999) (a bare bones allegation that a wrong occurred and which does not plead any of the facts giving rise to the injury does not provide adequate notice).²

² Because South Carolina cases have not specifically addressed the pleading requirements for civil conspiracy under the Rules of Civil Procedure, South Carolina courts may seek guidance from federal cases. Gardner v. Newsome Chevrolet-Buick, Inc., 404 S.E.2d 200 (S.C. 1991).

Therefore, the complaint/statement of claim with respect to a cause of action for constructive fraud cannot survive a Rule 12(b)(6) motion and should be dismissed.

Nuisance. There are no allegations in the statement of claim that can remotely be construed as alleging a nuisance on the part of the decedent. A Rule 12(b)(6) motion for failure to state facts sufficient to state a claim for nuisance is well grounded.

Personal Representative's Motion to Dismiss

Please take notice that the Personal Representative, through his undersigned attorney, moves the Chester County Probate Court for an Order dismissing the Claimant's Statement of Claim to the extent that Claimant purports to state a claim for constructive fraud, nuisance and quantum meruit. The motion is made pursuant to Rule 12(b)(6), SCRPC, on the ground that the statement of claim sets forth absolutely no allegations with respect to the elements of those causes of action.

A ruling on a Rule 12(b)(6) motion must be based solely on the allegations of the complaint (statement of claim). Sloan Const. Co., Inc. v. Southco Grassing, Inc., 629 S.E.2d 372 (S.C. App. 2006). The court must decide the motion on the facts alleged and reasonable inferences deducible from those alleged facts. Slack v. James, 589 S.E.2d 772 (S.C. App. 2003).

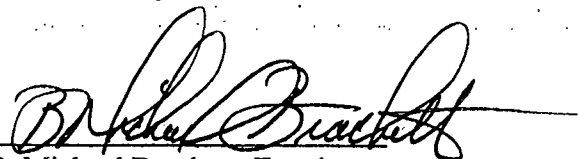
This motion will be supported by all matters of record herein and by relevant authorities of this and other jurisdictions. There is no duty of prior consultation with respect to this motion.

Conclusion

The motion to remove to the claim to circuit court should be denied. As to the claims of quantum meruit and equitable claim for improvements, those are equitable and are not removable.

As to constructive fraud, nuisance and quantum meruit, no claims have been sufficiently alleged to even constitute a claim on those theories. Once those claims are dismissed, as they must be, there will be nothing left to be removed with respect to those claims.

The Probate Court should retain the claim for equitable improvements and hear that claim in due course, after a reasonable time for discovery.



B. Michael Brackett, Esquire
1333 Main Street, Suite 650
Post Office Box 100261
Columbia, South Carolina 29202-3261
(803) 461-2312
Attorney for the Personal Representative

Dec 23, 2009

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

IN THE MATTER OF *THE ESTATE OF REBA P. HINSON*

CASE NUMBER 2008-ES-12-00297

PROBATE COURT

LOIS H. RODDEY
JUDGE OF PROBATE

2010 JAN -4 P 3: 03

PROBATE COURT
CHESTER COUNTY S.C.

PROOF OF DELIVERY

On the 23rd day of December, 2009, I delivered copies of The Personal Representative's Return to Claimant's Motion for Removal, including the PR's Motion to Dismiss

a copy of which is attached hereto and incorporated herein, by the following method (check appropriate box):

- ☐ personal delivery
- ☒ ordinary first class mail
- ☐ certified mail
- ☐ registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
Mell Woods, pro se	P. O. Box 2603, Lancaster, SC 29721
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SWORN to before me this 23rd day of
December, 2009

[Signature]

Notary Public for South Carolina

My Commission Expires: 12-15-15

Signature: *[Signature]*

Name: B. Michael Brackett

Address: Moses Koon & Brackett, PC

P. O. Box 100261, Columbia, SC 29202-3261

Telephone(O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone(O): _____

(H): _____

669

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-12-0168

(Removed from Probate Court)

In the Matter of the Estate of Reba P. Hinson

Mell Woods,

Plaintiff/Claimant,

v.

Robert H. Breakfield, Esquire, as
Personal Representative,

Defendant.

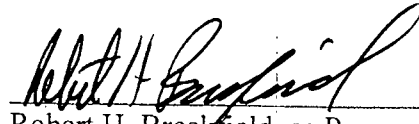
Defendant's Affidavit in Opposition
To Plaintiff's Motion to Amend
Petition

FILED
2010 FEB -2 A 9 20

Personally appeared before me the undersigned who being duly sworn deposes and says that:

1. I am the above-captioned defendant, the Personal Representative of the Estate of Reba Hinson.
2. Attached hereto as Exhibit 1 is Plaintiff's original Statement of Creditors Claim against the Estate, dated November 9, 2009.
3. Attached hereto as Exhibit 2 is Plaintiff's Amended Claim against the Estate, dated February 1, 2010..
4. Attached hereto as Exhibit 3 is Plaintiff's Motion to Amend and to Add Parties, dated November 9, 2010.
5. Attached hereto as Exhibit 4 is a true copy of the Chester County Probate Court's Order dated April 19, 2010 in what later became case no. 2010-CP-22-0210.
County 22 is Georgetown
6. Attached hereto as Exhibit 5 is a true copy of the transcript of the Probate Court's April 12, 2010 hearing in the case that later became case no. 2010-CP-22-0210.
County 22 is Georgetown
7. Attached hereto as Exhibit 6 are true copies of the last wills involved in Plaintiff's attempt to influence which last will is admitted to probate in the Reba Hinson estate. Plaintiff is not named in either last will.

8. Attached hereto as Exhibit 7 is a true copy of page 48 from Plaintiff's deposition in case no. 2010-CP-12-0168.

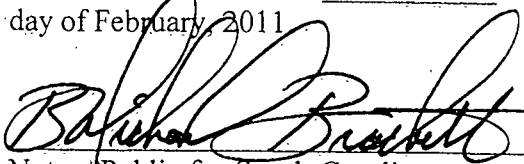


Robert H. Breakfield, as Personal Representative of
The Estate of Reba Hinson

Sworn to before me this

2

day of February, 2011



Notary Public for South Carolina

My Commission Expires: 6-17-12

EXHIBIT ONE

Contained in Record on Appeal pages 82-91.

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT TWO

Contained in Record on Appeal pages 77-80.

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT THREE

Contained in Record on Appeal pages 592-602

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT FOUR

Contained in Record on Appeal pages 218-222

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT FIVE

Contained in **Record on Appeal** pages 326-341

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT SIX

Contained in Record on Appeal pages 386-392

Document styled "affidavit" and dated February 02, 2011.

EXHIBIT SEVEN

Contained in **Record on Appeal** pages 603.

Document styled "affidavit" and dated February 02, 2011.

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

IN THE MATTER OF THE
ESTATE OF

REBA P. HINSON, PROBATE No:
2008-ES-12-00297

MELL WOODS,

PLAINTIFF-CLAIMANT,

V.

ROBERT H. BREAKFIELD,
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF REBA P. HINSON,

DEFENDANT.

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2010- CP- 12-00168

STANDING

NOW COMES, Mell Woods, plaintiff-claimant herein and shows to the honorable circuit court that he does have standing in this litigation contrary to any claim otherwise asserted by the pending 12(b)(6) motion, or any other device employed the defendant counsel;

1.

First, plaintiff has standing based upon South Carolina Statutes 62-1-201(20), "interested person", and 62-3-203(6), creditor eligible as personal representative;

2.

The claim part of the case alleges Quantum Meruit, Constructive Fraud, (meaning fraud by accident), causing a constructive trust to arise, and Nuisance/Outrage; part of of the nuisance claim is that the Hinson's dump raw sewage into the Fishing Creek Lake on a daily basis, and the same constitutes a nuisance under Lever v. Wilder Mobile Homes, Inc., 283 S.C. 452, and a jury trial has been demanded in this action;

3.

As to the will under which Robert Breakfield, the present personal representative is claiming - it is surely the wrong will, and Breakfield is the one without standing; the real will drawn by Mrs. Hinson in her own handwriting, was hidden by the clerks in the Chester County Probate Court for years; plaintiff shows by "Exhibit A" attached hereto, a public record request, that plaintiff has been looking for Mrs. Hinson's will since mid-2007, as well as telling the Probate Judge, Judge Roddey, that plaintiff needed to be notified about any proceedings in regard to Mrs. Hinson's probate case;

4.

The strange thing about the public record request is that it was never carried openly in the public file, but instead was kept in some other file and placed in the public file shortly before this matter was removed to circuit court; to shed some light on this and the missing will, plaintiff attaches "Exhibit B", a motion about suppression of wills, still pending in the probate court;

5.

Plaintiff does stand to lose a substantial amount because of the way the estate is being handled, example, there is a partition action pending which is unnecessary, and the whole place could be sold; plaintiff has a valuable building on the Hinson land which could be sold; Mrs. Hinson's will split the land using current surveyor maps designed to cut down on fighting among heirs; Ned Gregory II, In The Matter of Ned Gregory, II., Respondent, 360 S.C. 270, circumvented Mrs. Hinson's will and there has been fighting ever since; plaintiff is a real party in interest and has a personal stake in the outcome of this litigation; 12(b)(6) motions are supposed to be reserved for clear-cut items such as a statute of limitation defense, or at least something that can be measured;

Respectfully submitted,

This ____ day of September, 2010.

Mell Woods

P.O. Box 2603
Lancaster, SC 29721

June 27, 2007

Mell Woods
P.O. Box 2603
Lancaster, SC 29721

The Honorable Lois Roddey
Judge of Chester County Probate Court
Chester County Courthouse
Chester, South Carolina

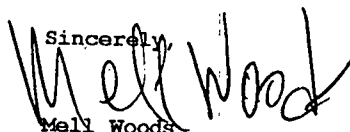
Hand Delivered.

Dear Judge Roddey:

This is in regard to Mrs. Reba Hinson. Mrs. Hinson died late last year and there is nothing on file concerning her estate. Perhaps there is nothing to file, however I have an interest in knowing if the estate is going to be probated. I spoke to you about this several months ago and you checked and verified that nothing had been filed. And I am sure nothing was there on the day I talked to you about this. However since that time, some of the Hinson heirs have been talking about seeing certain papers that have been prepared for filing. If you have any informal letters, papers, documents, or anything that is not in the record yet, please furnish these to me under the South Carolina Freedom of Information Act.

Request for Records Under the South Carolina Freedom of Information Act:

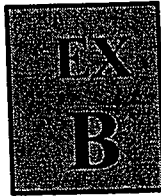
You are requested to release to the undersigned requestor, *All the papers, cards, tapes, photographs, maps, books, or other documentary material* retained by you in regard to Mrs. Reba Hinson; everything that is filed in the Court Record and is available for public inspection is not meant to be part of this request. Please note that this request is to view and inspect the actual records, but is not a request for copies [at the present time]. The listed records are public and subject to release under current South Carolina statutory and case law; and no record released will be used for a commercial purpose.

Sincerely,

Mell Woods

PROBATE COURT
CHESTER COUNTY S.C.

2007 JUN 28 P 1:46

LOIS H. RODDEY
JUDGE OF PROBATE



LOIS H. RODDEY
JUDGE OF PROBATE

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

COPY

2010 MAR -2 P 4: 05
PROBATE COURT
PROBATE COURT
HESTER COUNTY S.C.

IN THE MATTER OF: ESTATE OF REBA P. HINSON

Case Number: 2008ES1200297

Motion under South Carolina Probate Code
Section 62-2-901; DELIVERY AND SUPPRESSION OF WILLS:

Verified under personal knowledge standard

1.

The cited statute mandates that anyone in possession of a will for safekeeping, or any purpose, must deliver the will to the Judge of the proper Probate Court for safekeeping within 30 days of the learning of the death of a decedent, and makes it a misdemeanor to not do so;

2.

The above statute goes on further and makes it against the law for anyone to conceal a will to keep it from being probated;

3.

The actual will of Mrs. Hinson, the one with the later date which revoked the will now being probated, was actually concealed in the probate file itself; it was stuck way in the back in a section where miscellaneous papers were kept and bound together so that the papers did not appear to be part of the active probate case;

4.

One day movant finally found the will and asked for a certified copy of it out of fear that this real will might go missing; movant was rebuffed by one of the "legal assistants" to Judge Roddey, who stated that the part of the file where the will was, was not "official" because the papers in that part of the file had never been "clocked-in"; this conduct violates the public policy of South Carolina as articulated by South Carolina statute 62-1-305 which states a clerk

"must" issue a certified copy of "any" paper in a file;

5.

In addition to the above, the Probate Code, Section 62-2-901, requires that every Probate Judge, after 30 days have expired since a will has been deposited with "him", take proactive measures and publish in a newspaper in the county FIFTEEN times, the fact that the Probate Judge is holding a will, or wills, that are not being offered for probate; in this case more than twenty-four months elapsed and the Probate Court, Judge Roddey, Judge, never advertised these facts as required by statute; had the proper procedure been followed the wrong will would have never been offered for probate;

6.

WHEREFORE, Mell Woods, as the moving party herein, and as a stakeholder of the estate, a claimant and

creditor of the estate, hereby moves that the Chester County Probate Court Clerks be required to place in the local newspaper which is published two times a week, a notice to the effect that the decedent, Mrs. Hinson, left at least two wills, and also, any other wills which may be unknown to the moving party, which have been presented to the Chester County Probate Court, for seven weeks, plus one other week, for a total of EIGHT WEEKS, the fact that more than one will is on file for the decedent, Mrs. Reba P. Hinson;

7.

This should be done, number one, because the law requires it, and two, the case file is completely devoid of any document to show that the Probate Court, Judge Roddey, Judge, exercised any discretion whatsoever in picking which will to probate;

Respectfully submitted,

This ____ day of March, 2010.

COPY

Mell Woods

P.O. Box 2603
Lancaster, SC 29721

AFFIDAVIT AND VERIFICATION OF MOTION:

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER:

Mell Woods being first duly sworn deposes and states on oath that every fact recited in the foregoing MOTION TO PUBLISH THE FACT THAT MORE THAN ONE WILL EXISTS is the truth; affiant makes this affidavit upon his own personal knowledge;

Further, affiant saith not.

Mell Woods

Sworn to and subscribed before me,

this ____ day of March, 2010.

Gloria Diane Woods, Notary Public for South Carolina
Commission expires: Jan. 08, 2018

STATEMENT FOR RECORD ON APPEAL:

Respondent designates in No.24 that Respondent wants a Court Order from 2011-CP-12-0323 included in this Record on Appeal; in No. 04 Respondent designates the Court Order in this case granting summary judgment being dated February 09, 2011, which is true, but 2011-CP-12-0323 was filed on June 22, 2011, nearly four months after the summary judgment in this case. Rule 210(c) SCACR, requires the following:

"The Record shall not, however, include matter which was not presented to the lower court or tribunal."

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

IN THE COURT OF COMMON PLEAS

IN THE MATTER OF: THE ESTATE
OF REBA P. HINSON, PETITION
FOR ALLOWANCE OF CLAIM

MELL WOODS,)
PLAINTIFF-CLAIMANT,)

VS.)

ROBERT H. BREAKFIELD, AS)
PERSONAL REPRESENTATIVE)
OF THE ESTATE OF REBA P.)
HINSON,)

DEFENDANT.)

**ORDER DENYING
PLAINTIFF'S MOTION
TO AMEND COMPLAINT**

CASE NO. 2010-CP-12-168

FILED
2011 FEB - 7 PM 1:20
CLERK OF COURT
CHESTER CO S.C.

This matter comes before the Court on Plaintiff's Motion to Amend the Complaint to add Ned Gregory, Esquire as a Defendant. In this case, the Plaintiff has filed a claim against the Estate of Reba P. Hinson seeking damages or compensation. The Plaintiff asserts that Ned Gregory improperly filed the Will in this case. The Defendant is the Personal Representative of the Estate and asserts that since the Plaintiff is not a beneficiary of the Estate under either Will, he, therefore, has no standing to bring an action concerning the probating of any Will. The Court agrees with the position of the Defendant and denies Plaintiff's Motion to Amend.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

Plaintiff's Motion to Amend the Complaint is hereby denied.

AND IT IS ALL SO ORDERED.

February 4, 2011
Lancaster, SC



BROOKS P. GOLDSMITH, JUDGE
SIXTH JUDICIAL CIRCUIT

FILED
2011 FEB - 7 11 P 1:20
CLERK OF COURT
CHESTER CO S.C.

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-12-0168

(Removed from Probate Court)

In the Matter of the Estate of Reba P. Hinson

Mell Woods,

Plaintiff/Claimant,

v.

Robert H. Breakfield, Esquire, as
Personal Representative,

Defendant.

Order Granting Defendant's Motion for
Summary Judgment on Plaintiff's
Nuisance Claim

FILED

2011 FEB 16 P 2:35

2011 FEB 14 A 10:13

CLERK OF COURT
CHESTER CO. S.C.
CLERK OF COURT
CHESTER CO. S.C.

Defendant's Motion for summary judgment on Plaintiff's nuisance claim was heard on February 2, 2011. In attendance were Plaintiff, who appeared *pro se*, the Defendant and Defendant's attorney Mike Brackett.

Claimant-Plaintiff Mell Woods filed a claim against the Reba Hinson estate on or about November 9, 2009. The Personal Representative disallowed the claim by notice dated and served November 10, 2009. On December 9, 2009 Plaintiff filed and served a Petition for Allowance of Claim, a Demand for Jury Trial and a Motion to Remove his action for allowance of claim to Circuit Court. On February 3, 2010, immediately prior the probate court motion hearing, Plaintiff filed an "Amendment of Claim." The amended claim contains three separate claims, or causes of action. The Probate Court motion hearing on February 3, 2010 resulted in an Order removing the Plaintiff's claim proceeding to Circuit Court. The Order expressly provided that "This decision is without prejudice to the Personal Representative's pending motions." The matter was removed to Circuit

Court and was assigned the above-captioned case number.

The Defendant-Personal Representative's motion to dismiss the 2d and 3rd claims/causes of action was heard in the Circuit Court, Judge Newman presiding, on September 8, 2010. By Order dated September 30, 2010, Plaintiff's second and third causes of action were dismissed, leaving only the nuisance cause of action. Plaintiff's motion for reconsideration of this Order is pending, and Judge Newman has it under advisement.

Following the September 8, 2010 hearing, Defendant filed a Motion for Summary Judgment with respect to the nuisance claim. The basis of the nuisance cause of action is the allegation in the amended claim that "the estate operates, and Mrs. Hinson, while in life, allowed a certain residence to exist on the property **which has no septic tank, or any approved method of disposal**... the plumbing for this particular residence is arranged so when a commode is flushed, everything is flushed straight into the rubble pile... raw sewage then leaches into the lake..." (emphasis added).

Plaintiff alleges that the proximate cause of his alleged nuisance damages is the absence of a septic tank or other approved method of disposal on the "certain residence." In his deposition, Plaintiff identified the property occupied by Larry Baskins as the property that allegedly has no septic tank or other approved method of disposal.

Defendant's summary judgment motion was supported by two affidavits. In his affidavit, Mike Johnson, former Chester County Environmental Health Supervisor, describes his investigation of a complaint from the Plaintiff about sewage allegedly being discharged into the lake from the Baskins property. The investigation uncovered no evidence that sewage was being discharged into the lake or to the surface of the land on the Baskins property. This affidavit speaks to the allegation that the Baskins property has "no other approved method of disposal," by showing that the property in the vicinity of Plaintiff's lot and the Baskins lot was developed in the 1960s when Chester County

had not yet enacted construction standards and regulations, and that Chester County officials are aware of the method of disposal on the Baskins property.

The second affidavit was from Howard Steen, Larry Baskins' neighbor and the owner of a septic tank service company. His affidavit confirms that Baskins has a septic tank on his property and that he (Steen) has never seen evidence that Baskins was discharging raw sewage into the lake.

In response and opposition to the motion for summary judgment, including the supporting affidavits, Plaintiff may not rely upon the mere allegations in his pleadings. He must come forward with materials appropriate for consideration regarding summary judgment motions setting forth "specific facts" showing that a genuine issue exists for trial. Rule 56(e), SCRPC.

Plaintiff submitted a written response to the Court that he identified as an affidavit. Plaintiff's affidavit is conclusory in nature, relies on inadmissible evidence, and makes absolutely no statement of specific facts based on personal knowledge that the Baskins property does not have a septic tank and/or that the septic system on the property is not known to or approved by Chester County. The fact that Plaintiff claims to detect odors does not mean that the Baskins property has no septic tank or other approved method of disposal.

Accordingly, it is ORDERED that Defendant's Motion for Summary Judgment on the Plaintiff's nuisance claim be, and it hereby is, granted.

IT IS SO ORDERED.

February 9, 2011

Lancaster, SC

Brooks P. Goldsmith, Judge

FILED

2011 FEB 14 A 10:43
CLERK OF COURT
CHESTER CO S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

IN THE MATTER OF THE,)
ESTATE OF REBA P. HINSON,)
Probate 2008-ES-12-297)

MELL WOODS,

Plaintiff-Claimant,

Vs.

ROBERT H. BREAKFIELD, as
Personal Representative of the
Estate of REBA P. HINSON,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

ORDER DENYING
PLAINTIFF'S MOTION
TO RECONSIDER

CASE NO. 2010-CP-12-168

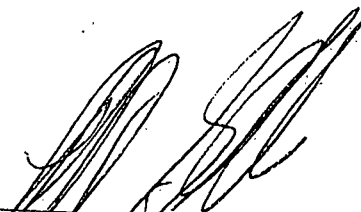
COPY

FILED
2011 MAR 25 A 11:5
CLERK OF COURT
CHESTER CO S.C.

This matter comes before the Court on Plaintiff's *Motion to Reconsider and to Alter or Amend Judgment* dated March 11, 2011. The main thrust of the motion is that the Plaintiff disagrees with the Court's decision to grant Motion for Summary Judgment. After considering the authority submitted by the Plaintiff, the Court finds there is no reason to change the prior ruling of the Court and, therefore, Plaintiff's *Motion to Reconsider* is denied.

AND IT IS SO ORDERED.

March 23, 2011
Lancaster SC


BROOKS P. GOLDSMITH, JUDGE
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2010-CP-12-0168
(Removed from Probate Court)

In the Matter of the Estate of Reba P.)
Hinson)

Mell Woods,)
)
Plaintiff/ Claimant)

vs.)

Robert H. Breakfield, Esquire, as)
Personal Representative,)

Defendant.)
_____)

ORDER DENYING MOTION FOR
RECONSIDERATION

FILED

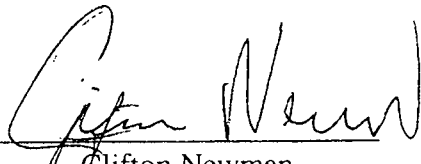
CLERK OF COURT
CHESTER CO S.C.
2011 MAY -5 A 11:43

This matter came before the Court on Plaintiff's Motion for Reconsideration of the Order entered on September 30, 2010 in the above matter. The Court previously granted the Plaintiff's Motion for Reconsideration in Case Number 2010- CP-12-0201, but did not rule on Plaintiff's Motion in the above-captioned matter.

Having carefully considered the arguments submitted and applicable law, the Court finds that the Motion for Reconsideration in the within matter should be DENIED.

It is therefore ORDERED that Plaintiff's Motion for Reconsideration in Case Number 2010-CP-12-0168 is hereby DENIED.

May 3, 2011
Columbia, South Carolina


Clifton Newman,
Presiding Judge

696

Respondent objects to Appellant's Designation of "the entire Circuit Court file and the entire Probate Court file." Every sheet of paper in the Circuit Court file and in the Probate Court file cannot possibly be relevant to the appeal. Appellant's designation and his certification are not in compliance with Rule 209, SCACR. Reserving the above-stated objection, Respondent designates the following particular documents to be included in the Record on Appeal:

1. Probate Court Order dated February 10, 2010 - removing claim proceeding to Circuit Court;
2. Judge Newman Order dated September 30, 2010 - partially dismissing claims;
3. Judge Goldsmith Order dated February 4, 2011 - denying Appellant's Motion to Amend;
4. Judge Goldsmith Order dated February 9, 2011 - granting Respondent's Motion for Summary Judgment;
5. Judge Goldsmith Order dated March 23, 2011 - denying Appellant's Motion for Reconsideration (re February 9, 2011 Order);
6. Judge Newman Order dated May 3, 2011 - denying Appellant's Motion for Reconsideration (re September 30, 2010 Order);
7. Appellant's Statement of Creditor's Claim dated November 9, 2009;
8. Notice of Disallowance of Claim dated November 10, 2009;
9. Appellant's Petition for Allowance of Claim, Demand and Motion, all dated December 9, 2009;
10. Respondent's Return and Motions filed January 4, 2010;
11. Appellant's Amended Claim dated February 1, 2010;
12. Judge Gettys April 19, 2010 Order in case no. 2010-CP-12-0201.

13. Appellant's Motion to Amend and Motion for Reconsideration, each dated November 9, 2010;
14. Appellant's Motion for Reconsideration dated March 11, 2011;
15. Affidavit of Howard Steen;
16. Affidavit of Mike Johnson;
17. Transcript of February 2, 2011 motions hearing;
18. Respondent's Motion for Summary Judgment on Appellant's nuisance claim;
19. Appellant's Response/Affidavit to Respondent's Summary Judgment Motion dated January 29, 2011;
20. Respondent's Affidavit filed February 2, 2011 in Opposition to Appellant's Motion to Amend, including 7 incorporated exhibits;
21. Pages 7, 8, 32 and 48 from Appellant's deposition transcript;
22. Levie Hinson Last Will, Exhibit 5 from Appellant's deposition transcript;
23. Lease, Exhibit 10 from Appellant's deposition transcript;
24. Judge Goldsmith Order Granting Summary Judgment, dated December 29, 2011, in case no. 2011-CP-12-0323.
25. Reba Hinson last will dated June 23, 1998;
26. Reba Hinson last will (signed) dated April 5, 2003;
27. Reba Hinson last will (unsigned) dated April 5, 2003.

13. Appellant's Motion to Amend and Motion for Reconsideration, each dated November 9, 2010;
14. Appellant's Motion for Reconsideration dated March 11, 2011;
15. Affidavit of Howard Steen;
16. Affidavit of Mike Johnson;
17. Transcript of February 2, 2011 motions hearing;
18. Respondent's Motion for Summary Judgment on Appellant's nuisance claim;
19. Appellant's Response/Affidavit to Respondent's Summary Judgment Motion dated January 29, 2011;
20. Respondent's Affidavit filed February 2, 2011 in Opposition to Appellant's Motion to Amend, including 7 incorporated exhibits; *P95-670-678*
7 ON P9-603
21. Pages 7, 8, 32 and 48 from Appellant's deposition transcript;
22. Levie Hinson Last Will, Exhibit 5 from Appellant's deposition transcript;
23. Lease, Exhibit 10 from Appellant's deposition transcript; *P9 374*
24. Judge Goldsmith Order Granting Summary Judgment, dated December 29, 2011, in case no. 2011-CP-12-0323. *P9-689*
25. Reba Hinson last will dated June 23, 1998; *Probate file*
26. Reba Hinson last will (signed) dated April 5, 2003; *Probate file*
27. Reba Hinson last will (unsigned) dated April 5, 2003. *Probate file*

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

In the Matter of the Estate of Reba P.
Hinson, Probate # 2008-ES-12-297,
Circuit Court # 2010-CP-12-168,

Mell Woods Appellant,

v.

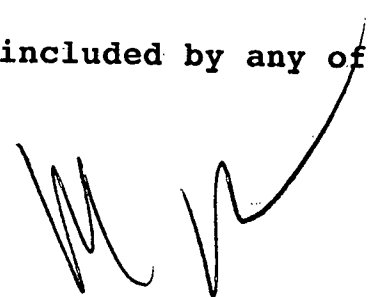
Robert H. Breakfield, as Personal Representative
of the Estate of Reba P. Hinson, ... Respondent.

Certificate of Appellant, Rule 210(g) SCACR

Court Of Appeals Internal Tracking Number: 2011-191876

The undersigned hereby certifies that the Record on Appeal
contains all material proposed to be included by any of the
parties and not any other material.

This eighth day of August, 2012.



Mell Woods
P.O. Box 2603
Lancaster, SC 29721

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

In the Matter of the Estate of Reba P.
Hinson, Probate # 2008-ES-12-297,
Circuit Court # 2010-CP-12-168,

Mell Woods Appellant,

v.

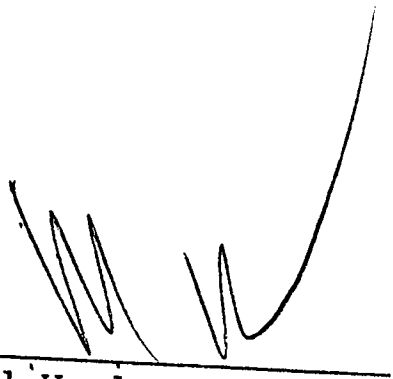
Robert H. Breakfield, as Personal Representative
of the Estate of Reba P. Hinson, ... Respondent.

PROOF OF SERVICE
Court Of Appeals Internal Tracking Number: 2011-191876

I hereby certify that I have served the Respondent with
a true copy of the Record on Appeal, And Certificate of
Appellant (Counsel), Rule 210(g) SCACR by placing the
copies in the U.S. Mail with sufficient first class stamps
addressed to:

Moses Koon & Brackett, PC
B. Michael Brackett
Attorney for Respondent
Post Office Box 100261
Columbia, S.C. 29202.

This eight day of August, 2012.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTER) SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF THE)
ESTATE OF REBA P. HINSON,)
Probate 2008-ES-12-00297)

No. 2010-CP-12-00-

168

MELL WOODS,

Plaintiff-Claimant,

vs.

ROBERT H. BREAKFIELD, as
Personal Representative)
of the Estate of)
REBA P. HINSON,)

Defendant.)

FILED
12011 MAR 16 P 2:54
CLERK OF COURT
CHESTER CO S.C.

MOTION TO RECONSIDER, AND TO ALTER OR AMEND JUDGMENT

Now Comes Mell Woods, party in the above-styled case,
and moves that the Honorable Circuit Court for the Sixth
Judicial Circuit reconsider the Order entered in this case
by the Honorable Brooks P. Goldsmith on February 02, 2011,
for the following reasons to wit:

1.

The Court failed to rule on certain matters appearing
of record within the court file, and on material matters

presented to the Court' during oral presentation, all of which should have been ruled upon before distilling the case into one for summary judgment adjudication;

2.

This motion is timely; the moving party herein received a filed copy of the court order from the defense attorney, Mr. Brackett, via the U.S. Mail; this Motion to Reconsider, and Alter or Amend Judgment is being served on the the counsel within ten days of the receipt of the court order on March 04, 2011, and is being FILED with the Clerk of Court within five days of service as required by Rule 5(d), South Carolina Civil Procedure Rules;

3.

This case involves the nuisance of the defendants dumping raw, and untreated sewage into the Fishing Creek Lake, in Chester County, South Carolina; under the ruling of the South Carolina Court of Appeals in the case of Lever v. Wilder Mobile Homes, Inc., 283 S.C. 452, such activities constitute a nuisance, per se, and the same is always a jury question;

4.

This case is no different from the Lever case; there is sworn testimony within the case file which establishes *prima facie* nuisance, and negligence, and as such, this case is not a proper one for summary judgment;

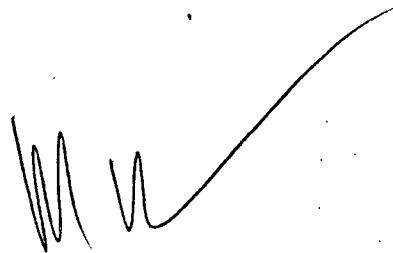
5.

Part of the Lever case is hereby set out verbatim because the Court of Appeals says it so much better than moving party:

Wilder first argues the trial court erred in refusing to grant its motions for directed verdict and judgment notwithstanding the verdict. However, issues are for the jury when the evidence, viewed in the light most favorable to the non-moving party, may establish the issues in the mind of a reasonable juror. *Brave v. Blakely*, 250 S.C. 353, 157 S.E.2d 726, 728 (1967). We hold the nuisance issue was for the jury. In South Carolina "anything" working inconvenience or damage, or interfering with the enjoyment of life or property is a nuisance. *Strong v. Winn-Dixie Stores, Inc.*, 240 S.C. 244, 125 S.E.2d 628, 632 (1962). More to the point, it is a nuisance to use property in such a way that annoying or injurious odors are emitted. *Woodstock Hardwood & Spool Manufacturing Co. v. Charleston Light & Water Co.*, 76 S.C. 95, 63 S.E. 548, 556 (1909). There is evidence in the record Wilder's actions inconvenienced Lever and interfered with the enjoyment of his life and property: Lever's wife testified the offensive odors from Wilder's property (1) precluded the couple from continuing to host family picnics and church groups, and (2) interfered with Lever's gardening activities. Under the "two-issue rule" it is unnecessary for us to consider whether the trespass issue was for the jury. In *Anderson v. West*, 270 S.C. 184, 241 S.E.2d 551, 553 (1978) the court held where the jury returns a general verdict involving two or more issues and the verdict is supported as to at least one issue, the verdict will not be reversed on appeal. Therefore, the trial court was correct in refusing to grant Wilder's motions.

Respectfully submitted,

This 11 day of March, 2011.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

FILED

2011 MAR 16 P 2:54

CLERK OF COURT
CHESTER CO S.C.

CERTIFICATE OF SERVICE:

I hereby certify that I have served the opposing party with a true and complete copy of the foregoing pleading by placing the same in the U.S. Mail with sufficient stamps addressed to counsel of record for the opposing party.

This 11 day of March, 2011.



Mell Woods

1 Q: And what sort of work did you do before
2 retirement?

3 A: I used to work for the Central Georgia Railroad
4 for a good many years.

5 Q: And what sort of work did you do for the
6 railroad?

7 A: Clerical work.

8 Q: And where was your office?

9 A: I didn't really have an office. I mean they had
10 a place out there for everybody. It was, it was
11 Savannah, Georgia. I mean you go around from
12 different places to do different functions.
13 Different yards there, so. Train yards there.

14 Q: The address, the place you lived in Georgia that
15 you told us about a second ago, is that near
16 Savannah?

17 A: Yeah, it's near Savannah. Not that far.

18 Q: All right. What brought you to Great Falls?

19 A: I don't know. I just I don't know. It's
20 got a nice lake up here for one thing.

21 Q: What lake's that?

22 A: Fishing Creek Lake. Fishing Creek Lake is what
23 they call it.

24 Q: And is that the area of the Catawba River just
25 north of the dam?

1 A: That's right.

2 Q: The Duke power dam?

3 A: Yeah. I'm trying to look at her, but it's hard.

4 MR. WOODS: Can you hear me, ma'am?

5 MADAM COURT REPORTER: I can. You don't
6 have to look at me. You can just look at Mr.
7 Brackett. You don't need to look at me. If I
8 don't get something, I'll stop you. Thank you.

9 Q: So that's the area of the Catawba River just
10 north of the Duke Power Dam?

11 A: That's correct. That's where that subdivision is
12 though.

13 Q: All right. Now this address you gave us of
14 Hinton Road, is that in a subdivision that has a
15 name?

16 A: Well, we call it the Hinson Subdivision, but I
17 don't know if it's got a legal name with the
18 county or not.

19 Q: And is it called Hinson Subdivision because it
20 was owned by the Hinsons?

21 A: Yeah, they misnamed the road. They meant to name
22 it Hinson Road, but the county got it confused,
23 and so it's in the 911 system now, so they said
24 they weren't going to change it.

25 Q: Does your wife work?

1 A: She had a she made a ruling to that effect,
2 but that's not it at all. Anybody can read all
3 of the documents and tell that she had an estate
4 in fee. Okay? That's my testimony. But don't,
5 don't mischaracterize this paragraph 11. That's
6 not what I'm saying. I'm saying that the Probate
7 Court was, was manipulated by Ned Gregory, II
8 into coming up with an erroneous rule. That's my
9 testimony.

10 Q: All right. Exhibit Five. Have you seen that
11 document before today?

12 (Defendant's Exhibit Number Five was marked for
13 identification purposes.)

14 A: I've seen it. It's Mr. Hinson's will.

15 Q: That's right. And he died

16 A: Whenever he died. It was a long time ago. I
17 never knew him now.

18 Q: Okay. And item two now he actually owned
19 the subdivision property at the time he died,
20 right?

21 A: He did, as far as I know from what you can tell
22 by looking at real estate records at the
23 courthouse.

24 Q: And this particular document, a copy of his will,
25 has the Probate Court stamp on it. It was filed

1 A: I got it. It's the one I got.

2 Q: And you say that there's a certain residence
3 existing on the subdivision property which has no
4 septic tank, right?

5 A: That's right.

6 Q: Which residence has no septic tank?

7 A: Several of them, but Baskins is the ones I'm
8 talking about.

9 Q: Larry Baskins?

10 A: Yeah. There's several of them that don't have
11 septic tanks. And the fact of the matter, I saw
12 one put in at a different place. It's right on
13 the riverbank about a month or two ago, and they
14 didn't get a permit to put it in. They came and
15 put in something to call a septic tank. It ain't
16 real. It's just they stacked some cement blocks
17 up there and put 20-foot of drain line in, and
18 it's right there, and it's polluting the water,
19 too. Half of them places down there don't have
20 septic tanks.

21 Q: The one that you were speaking of in your

22 A: Is Larry Baskins.

23 Q: in your amended claim was Larry Baskins'
24 property?

25 A: Yeah.

STATE OF SOUTH CAROLINA)
CHESTER COUNTY)

LAST WILL AND TESTAMENT OF
OF
LEVIE HOYT HINSON, PROBATE COURT
CHESTER COUNTY, S.C.

IN THE NAME OF GOD AMEN:

LEVIE HOYT HINSON, of county and state aforesaid, being of sound mind and disposing memory, but mindful of the uncertainty of human life, and being anxious to dispose of by my last will and testament of the property with which it has pleased the almighty God to bless me, do hereby make, utter, ordain publish and declare the following to be last will and testament. Item

Item I I will, devise and bequeath unto my beloved wife, Reba P. Hinson all of my personal property of every kind and description including cash money. At her death the remainder if any to our beloved children. Name William C. Hinson deceased his heirs, Lois H. Griffin John C. Hinson, Kathy H. Hufferickle, share and share alike.

Item II: I will devise and bequest unto my beloved wife REBA P. Hinson all my real estate, in fee simple, as long as she lives then to our bodily heirs forever.

Item III: I will and direct that my executrix hereinafter named do pay as soon as convenient all just debts including medical and funeral expenses from the first money coming into her hands as executrix of my estate.

Item I V: I hereby nominate, constitute and appoint my beloved wife Reba P. Hinson, executrix of this last will and testament and direct that she serve as such without being required to furnish bond unto the probate court for Chester County, South Carolina.

In witness whereof, I have hereunto set my hand and seal this the 21 day of April, A. D. 1977.

Levie Hoyt Hinson
testator

Signed, Sealed, Published and Declared
by the testator, Levie H. Hinson, as and

711

bond unto the probate court for Chester County, South Carolina.

In witness whereof, I have hereunto set my hand and seal this the

21 day of April, A. D. 1977.

Levie H. Hinson
testator

Signed, Sealed, Published and Declared
by the testator, Levie H. Hinson, as and
for his last Will and Testament, in our presence of each other and
presence of each other and the testator
at his request, have subscribed our name
as attesting witnesses this 21 day
of April, 1977.

Ernest M. Laugh
Lynn E. Coryell
Garret W. Lambree

Witnesses

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS :
SIXTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2011-CP-12-0323

Mell Woods,
Plaintiff,

vs.

ORDER

John D. Hinson; Christine Jones; John C.
Hinson; William L. Hinson; Lois Hinson;
Robert Breakfield, as Personal
Representative of the Estate of Reba P.
Hinson; Elaine H. Hensley; Robert H.
Hinson; George Stanford, as Personal
Representative of the Estate; Linda H.
Stanford; William C. Hinson, Jr.; Darrell W.
Hinson; Mary Roe and John Doe, fictitious
names used to designate all other parties,
whose names are unknown, and any and all
other persons claiming any right, title, estate
interest or lien upon the real estate described
in the complaint;
Defendants.

FILED

2011 DEC 30 A 11:14

CLERK OF COURT
CHESTER CO S.C.

This matter comes before the Court as Defendants' Motion for Summary Judgment. The Complaint is an action for trespass to try title. Plaintiff alleges that he is a bona fide purchaser for value without notice but more importantly that he is entitled to ownership of the subject property based on the theory of adverse possession. The parcel of land in question is known as 1537 Hinton Road located in Chester County. Specifically, Plaintiff contends that he purchased the property in question in May of 2005 from Reba P. Hinson. Reba Hinson acquired her ownership interest in the subject property under the Will of her husband, Levie Hinson. Plaintiff

claims that since 2005, he has held this property openly and notoriously against the world and that Reba Hinson likewise held this property adversely to the world and that the combination of the two exceeds 20 years, thus entitling him to claim ownership on the theory of "the presumption of a grant".

Defendants contend that Reba Hinson only inherited a life estate in the subject property, under the Will of Levie Hinson and that these Defendants are the remaindermen under the Will.

Levie Hinson left a Will dated April 21, 1977 that was probated following his death in 1986. The Will provided in part in item II: "I will devise and bequest [sic] unto my beloved wife, Reba P. Hinson, all my real estate, in fee simple, as long as she lives, then to our bodily heirs forever." Item I devised the Testators personal property; it reads: "I will, device [sic] and bequeath unto my beloved wife, Reba P. Hinson, all of my personal property of every kind and description, including cash money. At her death, the remainder, if any, to our beloved children."

Levie Hinson owned approximately 100 acres. There is no Deed of Distribution of real estate from the Estate of Levie Hinson. Following the death of Mr. Hinson, Reba Hinson divided some of the property into lots which she leased. The lessees placed mobile homes, campers, etc. on the respective lots. In 2002, Plaintiff leased a lot of land known as 1537 Flint Road from Reba Hinson and separately purchased a mobile home located on this lot from a prior lessee. Plaintiff contends that in 2003, he and Reba Hinson converted the lease to a contract of sale and purchase and that this is the basis for his claim of ownership. Neither the lease nor the contract of sale and purchase were recorded.

Reba Hinson died January 3, 2007. Plaintiff apparently filed claims against the Estate of Reba Hinson but did not file a claim to enforce the rights under his contract of sale.

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CHESLER CO STS.

Defendants assert that Reba Hinson inherited only a life estate in the real property of Levie Hinson and, thus, could not have contracted to sell to this Plaintiff any estate in lands greater than that which she owned. Plaintiff asserts that Item II of the Will of Levie Hinson should be interpreted as granting to Reba Hinson, absolute ownership of all real estate, as evidenced by the use of the words "in fee simple". Defendants contend that the entire sentence dealing with the ownership of real estate must be considered to determine the true intention of the Testator and it was clear that Levie Hinson only intended to give Reba Hinson the right to the use of the property as long as she lived and then to their "bodily heirs forever".

The Court recognizes the general rule that language in a Will that makes it an absolute gift cannot be thereafter reduced or cut down in a subsequent portion of the Will. The Court also is aware that the general rule in interpreting Wills is to determine the intent of the Testator. In this case, the use of the legal term "fee simple" is immediately followed by the language indicating that that this devise to Reba Hinson was to be "as long as she lives". Levie Hinson clearly intended for his wife to have the right to use his lands for and during her life and thus, he created a life estate with the remainder to their "bodily heirs forever".

Reba Hinson, having only a life estate, could not have conveyed to Plaintiff any interest greater than she owned. The life estate would have been extinguished upon her death.

The claim of Plaintiff that he was a bona fide purchaser for value without notice must also fail. Such a purchaser is charged with constructive notice of public records. In this case, the Chester County tax records and probate records would constitute constructive notice that Reba Hinson only had a life estate in the subject real property.

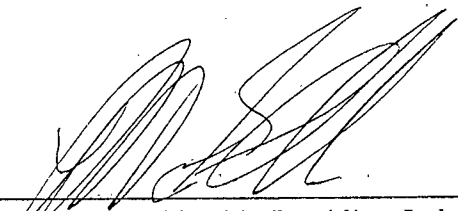
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Plaintiff claims ownership by virtue of a 20-year presumption of a grant through Reba Hinson. This claim must fail, as a life tenant (Reba Hinson) cannot claim adverse possession against remaindermen.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

Defendants' Motion for Summary Judgment is granted for the reasons stated above and Plaintiff's Complaint is dismissed.

IT IS SO ORDERED.



Brooks P. Goldsmith, Presiding Judge

December 29, 2011
Lancaster, South Carolina

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CHESTER CO S.C.

Respondent designates

the following particular documents to be included in the Record on Appeal:

1. Probate Court Order dated February 10, 2010 - removing claim proceeding to Circuit Court; R, 07
2. Judge Newman Order dated September 30, 2010 - partially dismissing claims; R, 583 - 586
3. Judge Goldsmith Order dated February 4, 2011 - denying Appellant's Motion to Amend; R, 690-691
4. Judge Goldsmith Order dated February 9, 2011 - granting Respondent's Motion for Summary Judgment; R, 692, 693, 694
5. Judge Goldsmith Order dated March 23, 2011 - denying Appellant's Motion for Reconsideration (re February 9, 2011 Order); R, 695
6. Judge Newman Order dated May 3, 2011 - denying Appellant's Motion for Reconsideration (re September 30, 2010 Order); R, 696, 28, 243
7. Appellant's Statement of Creditor's Claim dated November 9, 2009; R, 82-91
8. Notice of Disallowance of Claim dated November 10, 2009; R, 92
9. Appellant's Petition for Allowance of Claim, Demand and Motion, all dated December 9, 2009; R, 537-541, 663-664
10. Respondent's Return and Motions filed January 4, 2010; R, 666-669
11. Appellant's Amended Claim dated February 1, 2010; R, 77-81
12. Judge Gettys April 19, 2010 Order in case no. 2010-CP-12-0201. R, 02-06

13. Appellant's Motion to Amend and Motion for Reconsideration, each dated November 9, 2010; R, 203-212
14. Appellant's Motion for Reconsideration dated March 11, 2011; R, 703-706
15. Affidavit of Howard Steen; R, 635
16. Affidavit of Mike Johnson; R, 630-633
17. Transcript of February 2, 2011 motions hearing; R, 604-626
18. Respondent's Motion for Summary Judgment on Appellant's nuisance claim; R, 628-629
19. Appellant's Response/Affidavit to Respondent's Summary Judgment Motion dated January 29, 2011; R, 639-649
20. Respondent's Affidavit filed February 2, 2011 in Opposition to Appellant's Motion to Amend, including 7 incorporated exhibits; R, 670-671, 603, 678
21. Pages 7, 8, 32 and 48 from Appellant's deposition transcript; R, 707-710
22. Levie Hinson Last Will, Exhibit 5 from Appellant's deposition transcript; R, 711-712
23. Lease, Exhibit 10 from Appellant's deposition transcript; R, 374
24. Judge Goldsmith Order Granting Summary Judgment, dated December 29, 2011, in case no. 2011-CP-12-0323. R, 713-716
25. Reba Hinson last will dated June 23, 1998; R, 388-392
26. Reba Hinson last will (signed) dated April 5, 2003; R, 159-161, 93-102
27. Reba Hinson last will (unsigned) dated April 5, 2003. R, 515-516, 162-163

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

In the Matter of the Estate of Reba P.
Hinson, Probate # 2008-ES-12-297,
Circuit Court # 2010-CP-12-168,

Mell Woods Appellant,

v.

Robert H. Breakfield, as Personal Representative
of the Estate of Reba P. Hinson, ... Respondent.

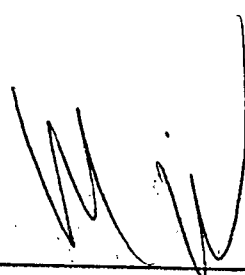
Certificate of Appellant, Rule 210(g) SCACR

Court Of Appeals Internal Tracking Number: 2011-191876

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material; and that an amended Record was served today containing the missing items listed in the Court Order of the Honorable Jasper M. Cureton, dated October 26, 2012. An amended index was also served in further

compliance with the Court Order of the Honorable Jasper M.
Cureton, dated October 26, 2012.

This 14 day of November, 2012.



Mell Woods
P.O. Box 2603
Lancaster, SC 29721

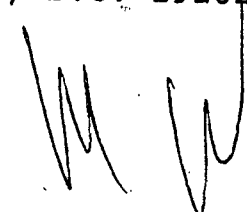
Proof of Service:

Woods v. Breakfield # 2011-191876

I hereby certify that I have served the respondent with
a true copy of the within and foregoing Certificate of
Appellant by placing the same in the U.S. Mail addressed
to:

Moses Koon & Brackett, PC
B. Michael Brackett
Attorney for Respondent
Post Office Box 100261
Columbia, S.C. 29202

This 14 day of November, 2012.



Mell Woods

AMENDED INDEX

ORDERS	pages <u>02</u> through <u>35</u>
ORDERS, added by Respondent. . .	pages <u>690</u> through <u>696</u>
Judgments, Decrees, Decisions, are included under <u>Orders</u> .	
Pleadings	pages <u>36</u> through <u>266</u>
Pleadings added by Respondent. . .	pages <u>592</u> through <u>603</u>
More Pleadings for Respondent. . .	pages <u>628</u> through <u>689</u>
Transcripts	pages <u>267</u> through <u>361</u>
Transcripts added by Respondent. . .	pages <u>604</u> through <u>627</u>
Charges . . . there were no charges.	
Exhibits and other materials, pages <u>362</u> through <u>591</u>	
Designation of Record by Respondent, pages <u>697</u> through <u>699</u>	
CERTIFICATE by Appellant, page <u>700</u> .	
Amended Certificate by Appellant, page <u>719-720</u>	
Amended additional index showing exact pages in Record where the Respondent's designated parts are shown, pages <u>717</u> through <u>718</u> .	
Proof of Service, pages 701-702.	
Amended Proof of Service, pages <u>720</u> through <u>720</u> .	

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

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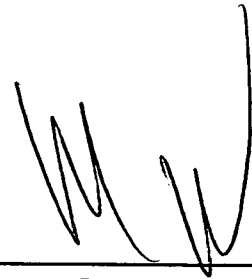
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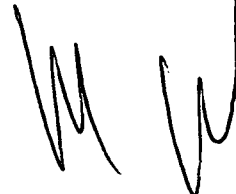
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Woods v. Breakfield # 2011-191876

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Attorney for Respondent
Post Office Box 100261
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SC Court of Appeals 2 -